

No. 10574

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United States  
Circuit Court of Appeals  
For the Ninth Circuit.

Vol  
2369

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JACK W. BAGLEY,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

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Transcript of Record

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Upon Appeal from the District Court of the United States  
for the Northern District of California,  
Southern Division

FILED

JAN 8 - 1944

PAUL P. O'BRIEN,  
CLERK



No. 10574

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United States  
Circuit Court of Appeals  
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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San Francisco, California.

Attorneys for Plaintiff and Appellee.

In the Southern Division of the United States  
District Court for the Northern District  
of California.

INDICTMENT

(No. 28056 R)

(Section 11, Selective Training and Service Act  
of 1940, As Amended, 50 U.S.C.A. Sec. 311)

In the July 1943 term of said Division of said  
District Court the Grand Jurors thereof on their  
oaths present: That

JACK W. BAGLEY,

(whose full and true name is, other than herein-  
above stated, to said Grand Jurors unknown),  
hereinafter called "said defendant", being a male  
citizen between the ages of twenty and forty-five  
years, residing in the United States and under  
the duty to present himself for and submit to  
registration under the provisions of the "Selective  
Training and Service Act of 1940, As Amended",  
and thereafter to comply with the rules and reg-  
ulations made pursuant thereto, and having in  
pursuance of said Act, As Amended, and rules and  
regulations made pursuant thereto become a reg-  
istrant of Local Board No. 106 of the Selective  
Service System, in the City of Redwood City,  
County of San Mateo, California, which said Local  
Board No. 106 was duly appointed and acting for  
the area of which the said defendant is a registrant,  
did, on or about the 17th day of July, 1943, in the  
City of Redwood City, County of San Mateo, in

the Southern Division of the Northern District of California, and within the jurisdiction of this Court, knowingly and feloniously fail and neglect to perform such duty, in that he, the said defendant, having theretofore been [1\*] classified in Class 1-A, did then and there knowingly feloniously fail to comply with the order of his said Local Board No. 106, to report for induction into the land or naval forces of the United States, as provided in the said Selective Training and Service Act of 1940, As Amended, and the rules and regulations made pursuant thereto.

FRANK J. HENNESSY

United States Attorney.

By W. E. LICKING,

Ass't. U. S. Atty.

Approved as to form:

R. M.Mc.M.

[Endorsed]: A true bill, Pearson Henderson,  
Foreman.

Presented in Open Court and Ordered Filed  
Aug. 3, 1943. C. W. Calbreath, Clerk. By J. A.  
Schaertzer, Deputy Clerk. [2]

---

District Court of the United States,  
Northern District of California  
Southern Division

At a Stated Term of the Southern Division of  
the United States District Court for the Northern

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\*Page numbering appearing at foot of page of original certified Transcript of Record.

District of California, held at the Court Room thereof, in the City and County of San Francisco, on Wednesday the 4th day of August, in the year of our Lord one thousand nine hundred and forty-three.

Present: The Honorable Michael J. Roche, District Judge.

No. 28056-R.

UNITED STATES OF AMERICA,

vs.

JACK W. BAGLEY.

### ARRAIGNMENT

This case came on regularly this day for arraignment. The defendant, Jack W. Bagley, was present in Court with his attorney Theodore Tamba, Esq. Joseph Karesh, Esq., Assistant United States Attorney, was present for and on behalf of the United States.

Upon motion of Mr. Karesh, the defendant was called for arraignment. The defendant was informed of the return of the Indictment by the United States Grand Jury, and asked if he was the person named therein, and upon his answer that he was, and that his true name was as charged, said defendant was informed of the charge against him and stated that he understood the same. The Clerk read the Indictment to the defendant.

Upon motion of Mr. Tambia, it is ordered that

this case be continued to August 6, 1943, for entry of defendant's plea to Indictment. [3]

---

District Court of the United States  
Northern District of California  
Southern Division

At a Stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Friday the 6th day of August, in the year of our Lord one thousand nine hundred and forty-three.

Present: The Honorable Michael J. Roche, District Judge.

[Title of Cause.]

No. 28056-R.

DEFENDANT'S PLEA OF NOT GUILTY  
ENTERED; etc.

This case came on regularly this day for entry of the plea of the defendant. The defendant, Jack W. Bagley, was present with his attorney Wayne Collins, Esq. Joseph Karesh, Esq., Assistant United States Attorney, was present for and on behalf of the United States.

The defendant was called to plead and thereupon said defendant entered a plea of "Not Guilty"

to the Indictment filed herein against him, which said plea was ordered entered.

After hearing the Attorneys, it is ordered that this case be continued to September 28, 1943, for trial. [4]

---

[Title of District Court and Cause.]

### VERDICT OF GUILTY

We, the Jury, find Jack W. Bagley, the defendant at the bar guilty as charged.

WILLIAM DOLGE

Foreman.

[Endorsed]: Filed Sep 29 1943. [5]

---

District Court of the United States. Northern  
District of California, Southern Division.

UNITED STATES

vs.

JACK W. BAGLEY

No. 28056-R Criminal Indictment in One  
count for violation of Section 11, Selective  
Training and Service Act of 1940, As  
Amended, 50 U.S.C.A. Sec. 311.

### JUDGMENT AND COMMITMENT.

On this 29th day of September, 1943, came the  
United States Attorney, and the defendant Jack



W. Bagley, appearing in proper person, and by counsel, and,

The defendant having been convicted on verdict of guilty of the offense charged in the Indictment in the above-entitled cause, to wit: Viol. of Section 11, Selective Training and Service Act of 1940, As Amended, 50 U.S.C.A. Sec. 311—defendant, did, on or about July 17, 1943, in Redwood City, California, having theretofore been classified in Class 1-A, did then and there knowingly and feloniously fail to comply with the order of his said Local Board No. 106, to report for induction into the land or naval forces of the United States, as provided in the said Selective Training and Service Act of 1940, As Amended, and the rules and regulations made pursuant thereto; and the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, It is By the Court

Ordered and Adjudged that the defendant, having been found guilty of said offense, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of Two (2) Years: [6]

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

(Signed) MICHAEL J. ROCHE

United States District Judge.

The Court recommends commitment to a U. S. Penitentiary.

Entered and Filed this 29th day of September, 1943.

(Signed) C. W. CALBREATH

Clerk.

By J. P. WELSH

Deputy Clerk.

Examined by:

JOSEPH KARESH,

Asst. U. S. Atty. [7]

---

[Title of Court and Cause.]

#### NOTICE OF APPEAL

Name and address of Appellant: Jack W. Bagley, Redwood City, California.

Offense: Violation of Selective Training and Service Act of 1940.

Date of Judgment: September 29, 1943.

Brief description of judgment or sentence: Two years in the federal penitentiary.

Name of prison where now confined: San Francisco County Jail.

I, the above-named Appellant, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment above mentioned on the grounds set forth below.

Dated Sept. 29, 1943.

JACK W. BAGLEY

Appellant.



## GROUNDS OF APPEAL:

I. The judgment abridges the defendant's freedom of religion and freedom of conscience in violation of the First Amendment of the United States Constitution.

II. The judgment abridges the defendant's liberty without due process of law in violation of the Fifth Amendment of the United States Constitution, in that the defendant was denied a fair hearing by and before his local draft board and by the special assistant to the Attorney General, the Hearing Officer, in the following particulars:

1. The local draft board did not accord to the defendant the right to a personal appearance as required by paragraph 625.1 and 625.2 of the Selective Service Regulations, [8] in that the defendant was not given an opportunity to present his case supporting his claim for a classification as a conscientious objector; and in that said local board did not consider evidence thereafter submitted by the defendant in support of his claim, and said local board did not make an order of classification thereupon, as required by said Regulations.

2. Before said Hearing Officer, in that the defendant was not accorded an opportunity to present his claim before said Hearing Officer, and was not given an opportunity to meet, nor was he advised, of any adverse evidence against him, in violation of paragraph 627.25 of the Selective Service Regulations and the memorandum of the Attorney General of the United States; and said Hearing

Officer's report was made as the result of reliance upon such evidence.

3. The reviewing authorities in the Selective Service System in connection with an appeal to the President of the United States, were military officers in violation of Section 10 (a) (2) of the Selective Training and Service Act.

III. The Court erred in refusing to grant defendant's motion for new trial.

IV. The Court erred in refusing to grant defendant's requested instructions as excepted to.

V. The Court erred in giving instructions submitted by the prosecution as excepted to by the defendant.

VI. The Court erred in ruling upon evidence and rejection of proffered exhibits by defendant and rejecting defendant's offers of proof, as excepted to by defendant.

VII. The evidence was insufficient to justify a conviction. [9]

THEODORE TAMBA

511 Mills Building

San Francisco, California

A. L. WIRIN

257 S. Spring Street

Los Angeles, California

By A. L. WIRIN

Attorney for Appellant.

[Endorsed]: Filed Sep 29 1943. [10]

District Court of the United States  
Northern District of California  
Southern Division

At a Stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Monday the 4th day of October, in the year of our Lord one thousand nine hundred and forty-three.

Present: The Honorable Michael J. Roche, District Judge.

[Title of Cause.]

No. 28056-R

INSTRUCTIONS RE RECORD ON APPEAL;  
etc.

This case came on regularly this day for instructions relative to record on appeal. After hearing Joseph Karesh, Esq., Assistant United States Attorney, and Theodore Tamba, Esq., Attorney for defendant, It Is Ordered that the defendant may have ten (10) days within which to prepare his proposed Bill of Exceptions, and the United States to have ten (10) days thereafter to file its proposed Amendments. Further ordered that the Bill of Exceptions be settled and filed by October 25, 1943. [11]

[Title of Court and Cause.]

ORDER EXTENDING TIME FOR PREPARATION OF RECORD ON APPEAL AND ORDER EXTENDING TERM OF COURT.

Upon motion made in open Court by Theodore Tamba, Esq., on behalf of the defendant, Jack W. Bagley, and the Government consenting thereto, and good cause appearing therefor,

It Is Hereby Ordered that the time for the preparation of defendant's proposed bill of exceptions may be and the same is hereby extended up to and including the 25th day of October, 1943, and that the Government may have up to and including the 4th day of November, 1943 within which to submit amendments thereto;

It Is Further Ordered that the July, 1943, term of Court be likewise extended to the 4th day of November, 1943.

Dated at San Francisco, California, October 14, 1943.

MICHAEL J. ROCHE

Judge.

I hereby consent to the entry of the foregoing Order.

FRANK J. HENNESSY

[Endorsed]: Filed Oct 14 1943. [12]

District Court of the United States  
Northern District of California  
Southern Division

At a Stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Thursday the 14th day of October, in the year of our Lord one thousand nine hundred and forty-three.

Present: The Honorable Michael J. Roche, District Judge.

[Title of Cause.]

No. 28056-R.

TIME FOR SETTLEMENT OF BILL OF EXCEPTIONS EXTENDED TO NOVEMBER 4, 1943; JULY 1943 TERM OF COURT EXTENDED TO SAID DATE; etc.

On motion of Theodore Tamba, Esq., Attorney for defendant, and with the consent of A. J. Zirpoli, Esq., Assistant United States Attorney, it is Ordered that the time for the preparation of defendant's proposed Bill of Exceptions may be and the same is hereby extended up to and including the 25th day of October, 1943, and that the Government may have up to and including the 4th day of November, 1943, within which to submit amendments thereto. Further ordered that the *Jury* 1943 Term of this Court be likewise extended to the 4th day of November, 1943. Further ordered that

this case now on the calendar for October 25, 1943, be continued to November 4, 1943, for settlement of the Bill of Exceptions. [13]

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District Court of the United States  
Northern District of California  
Southern Division

At a Stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Thursday the 4th day of November, in the year of our Lord one thousand nine hundred and forty-three.

Present: The Honorable Michael J. Roche, District Judge.

[Title of Cause.]

No. 28056-R.

CASE CONTINUED TO NOVEMBER 8, 1943,  
FOR SETTLEMENT OF BILL OF EX-  
CEPTIONS; etc.

This case came on regularly this day for settlement as to the Bill of Exceptions. Wayne Collins, Esq., appeared as Attorney for defendant. The defendant was not present. Joseph Karesh, Esq., Assistant United States Attorney, was present for and on behalf of the United States.

Upon motion of Mr. Collins and with consent



of Mr. Karesh, it is ordered that this case be continued to November 8, 1943, for settlement of the Bill of Exceptions. [14]

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District Court of the United States  
Northern District of California  
Southern Division

At a Stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Monday the 8th day of November, in the year of our Lord one thousand nine hundred and forty-three.

Present: The Honorable Michael J. Roche, District Judge.

[Title of Cause.]

No. 28056-R.

CASE CONTINUED TO NOVEMBER 9, 1943,  
FOR SETTLEMENT OF BILL OF EX-  
CEPTIONS; etc.

This case came on regularly this day for settlement of Bill of Exceptions. Upon motion of Wayne Collins, Esq., Attorney for defendant, and with the consent of Joseph Karesh, Esq., Assistant United States, it is ordered that this case be continued to November 9, 1943, for settlement of the Bill of Exceptions. [15]

District Court of the United States  
Northern District of California  
Southern Division

At a Stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Tuesday the 9th day of November, in the year of our Lord one thousand nine hundred and forty-three.

Present: The Honorable Michael J. Roche, District Judge.

[Title of Cause.]

No. 28056-R.

ORDER RELEASING DEFENDANT ON  
\$3,000.00 BAIL PENDING APPEAL; CASE  
CONTINUED TO NOVEMBER 15, 1943;  
FOR SETTLEMENT OF BILL OF EXCEP-  
TIONS; JULY 1943 TERM EXTENDED TO  
NOVEMBER 15, 1943

This case came on regularly this day for settlement of Bill of Exceptions. After hearing Wayne Collins, Esq., Attorney for defendant, and Joseph Karesh, Esq., Assistant United States Attorney, It Is Ordered that this case be continued to November 15, 1943, for settlement of the Bill of Exceptions. On motion of Mr. Collins, it is further ordered that the July 1943 Term of this Court be extended to November 15, 1943. Further ordered, on motion of Mr. Collins that the defendant Jack



W. Bagley may be released upon bail, on appeal, in the sum of \$3,000.00. [16]

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[Title of Court and Cause.]

ORDER ALLOWING RELEASE ON BAIL ON  
APPEAL

The defendant having filed a notice of appeal to the Ninth Circuit Court of Appeals, and good cause appearing therefor,

It Is Hereby Ordered that the defendant may be released upon bail, on appeal, in the sum of \$3000.00.

Dated: At San Francisco, California, this 9th day of November, 1943.

MICHAEL J. ROCHE

United States District Judge

[Endorsed]: Filed Nov 9 1943. [17]

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ENGROSSED BILL OF EXCEPTIONS

Be It Remembered that the above-entitled cause came on for trial by jury before the Honorable Michael J. Roche, United States District Judge presiding, on the 28th day of September, 1943.

United States of America, plaintiff, appeared by Frank J. Hennessy, Esq., United States attorney and Joseph Karesh, Esq., Assistant United States attorney, and the defendant appeared in person and with counsel, A. L. Wirin, Theodore Tamba and

Wayne M. Collins, Esquires, whereupon the United States to maintain the issues on its part to be maintained, called as its first witness George F. Paul:

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### TESTIMONY OF GEORGE F. PAUL

George F. Paul, produced as a witness on behalf of the United States, being first sworn, testified as follows:

I am and ever since October 16, 1940, have been the chief clerk of Local Board 106 of the Selective Service System at Redwood City, San Mateo County, California. I have the care, custody and control of the records of the Board and am in charge of the correspondence of the Board. The defendant registered (U.S.Exh. 1) under the Selective Training & Service Act of 1940 and on August 14, 1942, filed his verified Selective Service Questionnaire, DSS Form 40, (U.S.Exh. 2) with said board. In [18] said questionnaire defendant declared he was a native born citizen of the United States, a single person, 22 years of age, a high school graduate and that he was employed as a ship fitter trainee by the Bethlehem Steel Company in San Francisco, assembling destroyers, at an average weekly rate of \$50.00 and that he contributed \$60.00 per month to the support of his parents. He also declared therein that he had worked one year in said job and expected to continue indefinitely in it and that he was then employed in national de-

(Testimony of George F. Paul.)

fense work. He also declared therein that "by religious training and belief I am conscientiously opposed to war in any form and for this reason that the Local Board furnish me a special form for conscientious objector, Form 47, which I am to complete and return to the Local Board." Thereafter, on August 27, 1942, defendant filed with Local Board 106 DSS Form 47 (U.S.Exh. 3a) special form for conscientious objector, claiming exemption from combatant and non-combatant military and naval service on the ground that he was a conscientious objector.

### U. S. EXHIBIT NO. 1

REGISTRATION CARD—(Men born on or after February 17, 1897 and on or before December 31, 1921)

Serial Number T 749

1. Name (Print)

(First) Jack (Middle) Woodhouse (Last) Bagley.

Order No. T 11838

2. Place of Residence (Print)

(Number and Street) 2924 Jefferson Ave.,  
(Town, township, village, or city) Redwood  
City, (County) San Mateo, (State) Calif.

(The place of residence given on the line above will determine local board jurisdiction; line 2 of Registration Certificate will be identical.)

3. Mailing Address

(Testimony of George F. Paul.)

(Mailing address if other than place indicated on  
line 2. If same insert word same.)

Same

4. Telephone

(Exchange) Redwood (Number) 3065-W

5. Age in Years

21

Date of Birth.

(Mo.) July (Day) 29 (Yr.) 1920

6. Place of Birth

(Town or county) Cleveland (State or county)  
Ohio

7. Name and Address of Person Who Will Always  
Know Your Address

John W. Bagley 2924 Jefferson Ave. Redwood  
City, Cal.

8. Employer's Name and Address

Bethlehem Steel Co. Ship Building Div. 20th  
Illinois St. S. F.

9. Place of Employment or Business

(Number and street or R. F. D. number) 20th  
& Illinois St. (Town) San Francisco (Coun-  
ty) (State) Calif.

I Affirm That I Have Verified Above Answers  
and That They Are True.

D.S.S. Form 1 JACK W. BAGLEY

(Revised 1-1-42) (over) (Registrant's signature)

(Testimony of George F. Paul.)

REGISTRAR'S REPORT

Description of Registrant

RACE

White ✓

Negro

Oriental

Indian

Filipino

HAIR

Blonde

Red ✓

Brown

Black

Gray

Bald

HEIGHT (Approx.)

6' 1"

COMPLEXION

Sallow

EYES

Light

Blue

Ruddy ✓

Gray

Dark

Hazel

Freckled

Brown ✓

Light brown

Black

Dark brown

Black

WEIGHT (Approx.)

170

Other obvious physical characteristics that will aid in identification

None

I certify that my answers are true; that the person registered has read or has had read to him his own answers; that I have witnessed his signature

(Testimony of George F. Paul.)

or mark and that all his answers of which I have knowledge are true, except as follows:

W. H. DOXSEE

(Signature of registrar)

Registrar for Local Board (Number) 106 (City or county) Redwood City (State) Calif.

Date of registration Feb. 15, 1942

(Stamp of Local Board)

(The stamp of the Local Board having jurisdiction of the registrant shall be placed in the above space)

[Endorsed]: Filed 9-28-43.

---

## U. S. EXHIBIT NO. 2

### SELECTIVE SERVICE QUESTIONNAIRE

Order No. T-11838

Date of mailing August 14, 1942.

[Stamp of Local Board]: Local Board No. 106—91 081 106. San Mateo County. Aug 14 1942, Schaberg Bldg. Redwood City, California.

Name: (First) Jack (Middle) Woodhouse (Last) Bagley.

Address: (Number and street or R. F. D. route) 2924 Jefferson Avenue, (City or town) Redwood City (County) San Mateo (State) Calif.

#### Notice to Registrant

You are required by the Selective Service Regulations to fill out this Questionnaire truthfully and



(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

to return it to this local board on or before the date shown below. Willful failure to do so is punishable by fine and imprisonment.

This Questionnaire Must Be Returned on or Before August 24, 1942.

[ILLEGIBLE]

Member of Local Board.

(The above items are to be filled in by the local board before the Questionnaire is mailed to the registrant.)

### INSTRUCTIONS

This Questionnaire is intended to furnish the local board with information to enable it to classify you. You will receive notice from your local board of your classification.

Oaths required in the Questionnaire may be administered by any civil officer authorized to administer oaths generally, any commissioned officer of the land or naval forces assigned for duty with the Selective Service System, any member or clerk of a local board or board of appeal, any government appeal agent or associate government appeal agent, any member or associate member of an advisory board for registrants, any postmaster, acting postmaster or assistant postmaster.

Advisory boards for registrants are organized to assist registrants in completing their Questionnaires. No charge will be made for this service. Information as to the location of a member of the

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

advisory board for registrants who will assist in completing this form may be obtained from the local board office. If there is no advisory board member available, you must nevertheless complete your Questionnaire.

If the registrant is an inmate of an institution and is unable to complete the Questionnaire, the executive head of the institution shall communicate these facts immediately to the local board.

1. Make no alterations in the printed matter in this Questionnaire.

2. All spaces in this Questionnaire that apply to registrants must be filled in with the proper words.

3. If you furnish additional information or affidavits with your Questionnaire, attach the same securely to it.

4. If you are already in the active military or naval service, obtain a certificate to that effect from your commanding officer and attach same to your Questionnaire.

5. After this Questionnaire has been returned, report to your local board at once any change of address or any new fact which may affect your classification.

Statements in this Questionnaire marked (Confidential) are for information only of the officials duly authorized under the regulations.



(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

Use Ink or Typewriter in Filling Out This Form  
D. S. S. Form 40

(Revised Jan 12, 1942)

## STATEMENTS OF THE REGISTRANT

### Series I.—Identification

Instructions—Every registrant shall fill in all statements in this series.

1. My name is (print) (First name) John (Middle name) Woodhouse (Last name) Bagley.

2. In addition to the name given above, I have also been known by the name or names of (If none, write “None”) Jack.

3. My residence now is (Number and street or R. F. D.) 2924 Jefferson Ave. (Town—[City, town, or village]) Redwood City (County) San Mateo (State) California.

4. My telephone number now is (Town) Redwood (Exchange) (Number) 3065W (If you have no phone, write “None”)

5. My Social Security number is (If none, write “None”) 547-26-3170.

6. I was 22 years of age on my last birthday.

### Series II.—Physical Condition (Confidential)

Instructions.—Every registrant shall fill in all statements in this series.

1. To the best of my knowledge, I (have, have no) have physical or mental defects or diseases. If so, they are (List defects or diseases here) evidence of hernia.

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

2. I (am, am not) am not an inmate of an institution. If so, its name is (Name of hospital, prison, or other institution) and it is located at (Give address)

### Series III.—Education

Instructions.—Every registrant shall fill in all statements in this series.

1. I have completed (Number) 8 years of elementary school and (Number) 3½ years of high school.

2. I have had the following schooling other than elementary and high school (if none, write "None"):

Name of Vocational School, College, or University, Shipfitter's School Course of Study Shipfitting  
Length of Time Attended 3 months.

3. I (can, cannot) can read and write the English language.

### Series IV.—Present Occupation or Activity

Instructions.—Every registrant shall fill in No. 1 of this series; every registrant now at work shall fill in No. 2; every registrant now unemployed shall answer No. 3; and every registrant who is now a student, whether or not he also has a job, shall fill in No. 4.

1. (Put an X in one box) I am now [X] working at the job described under No. 2 below.

[ ] Unemployed for the reasons and under the circumstances described in my answer to No. 3 below.

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

[ ] a student pursuing the course of study described under No. 4 below.

2. (a) The job I am now working at is (give full title, for example: Construction draftsman, turret-lathe operator, stationary engineer, farm laborer, prosecuting attorney, physics teacher, policeman, marriage-license clerk, etc.):

Shipfitter Trainee.

(b) I do the following kind of work in my present job (be specific—give a brief statement of your duties): Assemble Destroyers.

(c) I have had 1 years experience in this kind of work.

(d) My average (weekly, monthly, annual) weekly earnings in my present job are \$50.00 (Confidential.)

(e) In my present job I am—(Put an X in one box)

[X] a regular or permanent employee, working for salary, wages, commission, or other compensation; I have worked 1 years in my present job, and expect to continue indefinitely in it.

[ ] a temporary or occasional employee; I expect that my present job will end about (Date)

[ ] an apprentice under a written or oral agreement with my employer, which expires (Date)

[ ] an independent worker, working on my own account, not hired by anyone, and not hiring any help.

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

[ ] working for my father or for the head of my family, but receiving no pay.

[ ] an employer or proprietor hiring (Number) paid workers.

(f) I (am, am not) am now employed in national defense work.

(g) My employer is: (Name of organization or proprietor, not foreman or supervisor) Bethlehem Steel Co. Shipbuilding Division (Address of place of employment—street or R. F. D. route, city, and State) 20th & Illinois Sts. San Francisco, California, whose business is (For example: Farm, airplane engine factory, retail food store, W. P. A.) Mfg. of steel and fabrication of same.

(h) Other business or work in which I am now engaged is (If none, write "None") None.

Instructions.—If your employer believes that you are a necessary man in a necessary occupation, it is his duty to fill out Form 42A requesting your deferment. You may also attach to this page any further statement by yourself which you think the local board should consider in determining your classification. Such statement will then become a part of the Questionnaire

3. If you are not now working, attach to this page a statement (a) giving the reasons for your unemployment, when it began, and when you expect to be able to resume your work, and (b) supplying substantially the same information regarding your last job as is required in Items 2 (a) to 2 (f) above.

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

4. (a) (If a student) I am majoring in.....  
 .....preparing for (Occupation or pro-  
 fession)..... at (Name and address of  
 school or college).....

(b) I expect to complete this training on  
 (Date).

(c) I (do, do not) intend to take an examina-  
 tion for license in (Profession). Date of exami-  
 nation .....

Instructions.—A student who believes that he  
 should be placed in Class II because preparing for  
 a necessary occupation should see that the head of  
 his school files with the local board the necessary  
 supporting evidence.

#### Series V.—Agricultural Occupations

Instructions.—Every registrant who works on a  
 farm shall fill in this series, in addition to filling in  
 Series IV and VI.

1. I work on or operate a farm as—(Put an X  
 in the correct box)

☐ sole owner of the farm. ☐ joint owner  
 with (Name) (Address)

☐ hired manager ☐ cash tenant or renter  
☐ standing rent tenant ☐ share cropper ☐  
 share tenant. My agreement (if any) expires  
 (Month) (Day) (Year).

☐ wage hand (hired man). ☐ unpaid family  
 worker.

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

not, her address is.....; we were married at (Place) on (Date).

2. (a) I have (Number) children under 18 years of age.

(b) Of these children (Number) live with me in my home.

Instructions.—Every registrant who lives in a family group and contributes to the support of that group shall fill in statement No. 3. "Family group" as used in this statement means two or more persons related by blood, marriage, or adoption, who live together and who pool all or a substantial part of their individual incomes for their joint support. (Such a group may not always include everyone who lives in the same house or eats at the same table. For example, when a registrant and his wife and children share a house with other relatives but do not share the income of those other relatives, the family group to be listed here would include only the registrant and his wife and children.)

The information here given is intended to describe only the economic situation of the family group as it now exists and is not intended to suggest that by altering their present domestic arrangement, present dependents of the registrant might obtain support from other persons who are not now supporting them.

3. (a) The following is a list of all members of the family group in which I live (list yourself first):



(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

Name (Name of registrant) Jack Woodhouse  
Bagley.

Sex Male

Age last birthday 22

Relationship to me Self.

Date I began to contribute to this person's support. (If not contributing, write "N. C.") x x x x x

Amount this person earned by work during past 12 months \$2761.04.

(b) I contributed \$2761.04 during the last 12 months to the support of the above-listed family group.

(c) In addition to the earnings shown in table 3 (a), only the following other income was received by members of this family group during the past 12 months. (State the nature and source of every item of income whether in cash or other things of value. Include income from property, relief payments, and contributions from persons outside this group. Give name, address, relationship, and age of each person outside the family group making such contributions): (blank).

Instructions.—Every registrant who contributes to the support of one or more persons who are not members of the family group listed above shall fill in statement No. 4.

4. (a) The following persons who are not members of the family group listed above depend wholly or partly for support on what I earned by my work in my business, occupation, or employment; they

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

had no other sources of income during the past 12 months, except as stated below:

[Blank form not filled in.]

(b) Of the amounts contributed by me to dependents listed in 4 (a) only (If none, write "None") \$. . . . . contributed to (Name of dependent) was in payment for my own board and lodging.

(c) The sources of the "other income" shown in the last column of the table just above were as follows: (Give name of dependent and state whether income was earned or contributed; if contributed, give name of dependent and name and address of person or agency contributing.) . . . . .

(d) The income I earned from my work in my business, occupation, or employment during the past 12 months was \$2761.04.

(e) My income from all other sources during the past 12 months was \$. . . . .

Instructions.—Every registrant who fills in either statement No. 3 or No. 4 shall also fill in the statements numbered 5 through 9 in this series.

[Blank form not filled in.]

7. I (do, do not) do not rent the house or apartment in which I live; if so, the monthly rent now is \$. . . . .

8. I have contracted to purchase the following property (if none, write "None"):

Kind of Property None.

Date of Contract (blank).



(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

Balance Now Outstanding (blank).

Monthly Payments (blank).

9. Other facts which I consider necessary to present fairly my own status and that of my dependents as a basis for my proper classification are (if none, write "None"):

I live with my parents and pay \$60.00 per month to help with expenses.

Instructions.—With respect to any dependent (other than the registrant's own wife or child) whose support the registrant has assumed, the registrant shall furnish to the local board an affidavit of the person for whom dependency is claimed (or from the person's guardian if he is incompetent), explaining why and under what circumstances the registrant assumed such person's support. Copies of Form 40-A for this purpose may be obtained from the local board. If the dependent lives at a distance, do not delay return of the Questionnaire pending receipt of the affidavit; forward the affidavit as soon as received and it will then become a part of this Questionnaire.

Series VIII.—Minister, or Student Preparing for the Ministry

Instructions.—Every registrant who is a minister or a student preparing for the ministry shall fill in the statements in this series that apply to him.

1. (a) I (am, am not) am not a minister of religion.

[Blank form not filled in.]

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

Series IX.—Citizenship

Instructions.—Every registrant shall fill in the statements numbered 1, 2, 3, and 4 in this series.

1. I was born at (Town) Cleveland (State) Ohio (Country) U. S. A.

2. I was born on (Month) July (Day) 29 (Year) 1920.

3. My race is:

☒ White;

☐ Negro;

☐ Oriental;

☐ Indian;

☐ Filipino;

Other (specify) .....

4. I (am, am not) am a citizen of the United States.

Instructions.—Every registrant who is not a citizen of the United States shall fill in the statements numbered 5, 6, 7, and 8.

[Blank form not filled in.]

Series X.—Conscientious Objection to War

Instructions.—Any registrant who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form shall sign the statement below requesting a Special Form for Conscientious Objector (Form 47) from the local board which must be completed and returned to the local board for consideration.

By reason of religious training and belief I am conscientiously opposed to war in any form and

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

for this reason request that the local board furnish me a Special Form for Conscientious Objector (Form 47) which I am to complete and return to the local board.

JACK WOODHOUSE BAGLEY  
(Signature)

Series XI.—Court Record (Confidential)

Instructions.—Every registrant shall fill in statement No. 1.

1. I (have, have not) have not been convicted of a crime, other than minor traffic violations.

Instructions.—Every registrant who has ever been convicted of a crime, other than minor traffic violations, shall fill in statement No. 2, listing all convictions.

2. The record of my convictions is as follows:

[Blank form not filled in.]

3. I (am, am not) am not now being retained in the custody of a court of criminal jurisdiction, or other civil authority.

Series XII.—Military Service (Confidential)

Instructions.—Every registrant who now is or has been a member of the armed forces of the United States shall fill in the statements in this series. (Use a separate line for each term of service.)

[Blank form not filled in.]

Series XIII.—Present Members of Armed Forces,  
Certain Officials, Etc.

Instructions.—Every registrant who is a member

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

of one or more of the groups named in this series shall check the appropriate item or items and shall supply any further information called for under the item or items checked.

I am at present:

1. [ ] A commissioned officer, warrant officer, pay clerk, or enlisted man of the Regular Army, the Navy, the Marine Corps, the Coast Guard, the Coast and Geodetic Survey, the Public Health Service, the federally recognized active National Guard, the Officers' Reserve Corps, the Regular Army Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, or the Coast Guard Reserve; my rank or commission is.....in the (Name of service)

2. [ ] a cadet, United States Military Academy; midshipman, United States Naval Academy; cadet, United States Coast Guard Academy; man who has been accepted for admittance (commencing with the academic year next succeeding such acceptance) to the United States Military Academy as cadet, to the United States Naval Academy as midshipman, or to the United States Coast Guard Academy as cadet, and whose acceptance is still in effect; cadet of the advanced course, senior division, Reserve Officers' Training Corps or Naval Reserve Officers' Training Corps; I am (A cadet, midshipman, or accepted for admittance) in (Name of corps, academy, etc.)

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

3. [ ] The Governor of a State or Territory, a member of a legislative body of the United States or of a State or Territory, a judge of a court of record of the United States or of a State or Territory or the District of Columbia; my office is:

.....

### Registrant's Statement Regarding Classification

Instructions.—It is optional with registrant whether or not he fills in this statement, and failure to answer shall not constitute a waiver of claim to deferred or other status. The local board is charged by law to determine the classification of the registrant on the basis of the facts before it, which should be taken fully into consideration regardless of whether or not this statement is filled in.

In view of the facts set forth in this Questionnaire it is my opinion that my classification should be Class.....

The registrant may write in the space below or attach to this page any statement which he believes should be brought to the attention of the local board in determining his classification.

### Registrant's Affidavit

Instructions.—1. Every registrant shall make the registrant's affidavit. 2. If the registrant cannot read, the questions and his answers thereto shall be read to him by the officer who administers the oath.



(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

State of California,

County of San Mateo,—ss:

I, Jack Woodhouse Bagley, do solemnly swear (or affirm) that I am the registrant named and described in the foregoing statements in this Questionnaire; that I have read (or have had read to me) the statements made by and about me, and that each and every such statement is true and complete to the best of my knowledge, information, and belief. The statements made by me in the foregoing (are, are not) are in my own handwriting.

Registrant sign here

**JACK WOODHOUSE BAGLEY.**

(Signature or mark of registrant)

Subscribed and sworn to before me this 25th day of August, 1942.

**FLORENCE W. MAGRUDER**

(Signature of officer)

Member of Advisory Draft Bd. # 106.

(Designation of officer)

If another person has assisted the registrant in filling out this Questionnaire, such person shall sign the following statement:

I have assisted the registrant herein named in preparation of this Questionnaire because (For example—Registrant unable to read and write English, etc.)

.....  
(Signature of Advisor)

(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

Instructions.—Registrant shall write nothing below this line when filling out the Questionnaire.

Minute of Action on Request for Extension of Time  
for Filing Claim or Proof

The application of.....  
to have time for filing claim or proof extended to  
....., 19.... is (granted, refused) for the  
reason that .....  
.....

(Date)

Member.

Minute of Action by Local Board No.....,  
County ....., State.....

The local board classifies the registrant in Class  
1, Subdivision A, by the following vote: Yes 4,  
No 0 (Date) 10/8/42. ✓

W. H. DOXSEE

Member.

Appeal to Board of Appeal

I hereby appeal to the board of appeal from the  
determination of the local board.

(Date) blank. (Signature of person appealing)  
blank. (Relationship to registrant, i. e., parent,  
employer, appeal agent, etc.) blank.

Minute of Action by Board of Appeal No. 9,  
County of Santa Clara, State Cal.

The board of appeal classifies the registrant in



(Testimony of George F. Paul.)

U. S. Exhibit No. 2—(Continued)

Class 1, Subdivision A, by the following vote: Yes 3  
No 0. (Date) May 26th 1943.

C. C. COOLIDGE.

Member.

### Appeal to President

I hereby appeal to the President from the determination of the board of appeal.

(Date) blank. (Signature of person appealing)  
blank. (Relationship to registrant, i. e., parent,  
employer, appeal agent, etc.) blank.

### Minutes of Other Actions

Dates 9/24/42 Refer to doctor 4—0.

✓10/5/42 Registrant appeared before board re appeal, no action . . . . . W.H.D.

### Minutes of Other Actions of Board of Appeal

Dec. 16th, 1942. This Board of Appeal has reviewed the file of registrant and has determined that the registrant should not be classified in Class 1-C, Class IV-F, Class IV-D, Class IV-C, Class IV-B, Class IV-A, Class III-B, Class III-A, Class II-B, Class II-A or Class I-H.

C. C. COOLIDGE,

Member.

6/12/43 Registrant notified of appeal board action.

[Endorsed]: Filed 9/28/43.

(Testimony of George F. Paul.)

U. S. EXHIBIT NO. 3A

SPECIAL FORM FOR CONSCIENTIOUS  
OBJECTOR

Order No. ....

Aug 28 '42

F 11838

(Stamp of Local Board)

Name (First) John (Middle) Woodhouse (Last)  
Bagley

Address (Number and street or R.F.D. route)  
2924 Jefferson Ave.

(City, town, or village) Redwood City (County)  
San Mateo (State) Calif.

This form must be returned on or before (Five  
days after date of mailing or issue)

Instructions

A registrant who claims to be a conscientious objector shall offer information in substantiation of his claim on this special form, which when filed shall become a part of his Questionnaire.

The questions in Series II through V in this form are intended to obtain evidence of the genuineness of the claim made in Series I, and the answers given by the registrant shall be for the information only of the officials duly authorized under the regulations to examine them.

In the case of any registrant who claims to be a conscientious objector, the Local Board shall proceed in the ordinary course to classify him upon all other grounds of deferment, and shall consider and pass upon his claim as a conscientious objector only if, but for such claim, he would have been

(Testimony of George F. Paul.)

placed in Class I. The procedure for appeal from a decision of the Local Board on a claim for conscientious objection is provided for in the Selective Service Regulations.

Failure by the registrant to file this special form on or before the date indicated above may be regarded as a waiver by the registrant of his claim as a conscientious objector: Provided, however, That the Local Board, in its discretion, and for good cause shown by the registrant, may grant a reasonable extension of time for filing this special form.

#### Series I.—Claim for Exemption

Instructions.—The registrant must sign his name to either Statement A or Statement B in this series but not to both of them. The registrant should strike out the statement in this series which he does not sign.

A. I claim the exemption provided by the Selective Training and Service Act of 1940 for conscientious objectors, because I am conscientiously opposed by reason of my religious training and belief to participation in war in any form and to participation in combatant military service or training therefor; but I am willing to participate in non-combatant service or training therefor under the direction of military authorities.

.....

(Signature of registrant)

[Printer's Note: Preceding paragraph has check mark through it.]

(Testimony of George F. Paul.)

B. I claim the exemption provided by the Selective Training and Service Act of 1940 for conscientious objectors, because I am conscientiously opposed by reason of my religious training and belief to participation in war in any form and to participation in any service which is under the direction of military authorities.

JACK WOODHOUSE BAGLEY,  
(Signature of registrant)

Series II.—Religious Training and Beliefs

Instructions.—Every question in this series must be fully answered. If more space is necessary, attach extra sheets of paper to this page.

1. Describe the nature of your belief which is the basis of your claim made in Series I above.

I believe in the Ten Commandments, The Golden Rule and The Sermon on the Mount.

“Thou shalt not kill.”

2. Explain how, when, and from whom or from what source you received the training and acquired the belief which is the basis of your claim made in Series I above.

Home training and Christian contacts throughout my life.

3. Give the name and present address of the individual upon whom you rely most for religious guidance.

My mother, Mrs. J. W. Bagley, 2924 Jefferson Ave., Redwood City, California.

4. Under what circumstances, if any, do you believe in the use of force?

(Testimony of George F. Paul.)

I do not believe in human bloodshed.

5. Describe the actions and behavior in your life which in your opinion most conspicuously demonstrate the consistency and depth of your religious convictions.

The stand I am taking at the present time, making public my opinions, I feel demonstrate the depth of my religious convictions.

6. Have you ever given public expression, written or oral, to the views herein expressed as the basis for your claim made in Series I above? If so, specify when and where.

No.

### Series III.—General Background

Instructions.—Every question in this series must be fully answered. If more space is necessary, attach extra sheets of paper to this page.

1. Give the name and address of each school and college which you have attended, together with the dates of your attendance; and state in each instance the type of school (public, private, church, military, commercial, etc.).

Name of School—Central School. Type of School—Grade. Location of School—Berea, Ohio. Dates Attended—From—1926 To—1932.

Name of School—Berea High School. Type of School—Junior High. Location of School—Berea, Ohio. Dates Attended—From—1932 To—1934.

Name of School—Alameda High School. Type of School—High. Location of School—Alameda, Calif. Dates Attended—From—1934 To—1937.

(Testimony of George F. Paul.)

Name of School—Sequoia Union High. Type of School—High. Location of School—Redwood City, Calif. Dates Attended— From—1937 To—1939.

2. Give a chronological list of all occupations, positions, jobs, or types of work, other than as a student in school or college, in which you have at any time been engaged, whether for monetary compensation or not, giving the facts indicated below with regard to each position or job held, or type of work in which engaged:

Type of Work—Auto Mechanic. Name of Employer—David H. Willard. Address of Employer—Jefferson Ave., Redwood City, Cal. Period Worked—From—1938 To—1940.

Type of Work—Assistant Farm Manager. Name of Employer—Miss F. Gertrude Akins. Address of Employer—Columbia Station, Ohio. Period Worked—From—1940 To—1941.

Type of Work—Auto Mechanic. Name of Employer—Perry Heineman. Address of Employer—Columbia Station, Ohio. Period Worked—From—1940 To—1941.

Type of Work—Shipfitter. Name of Employer—Bethlehem Steel Co. Address of Employer—San Francisco, Calif. Period Worked—From—1941 To—1942.

3. Give all addresses and dates of residence where you have formerly lived:

Name of City, Town, or Village—Berea, ~~Ohio~~. State or Foreign Country—Ohio. Street Address or



(Testimony of George F. Paul.)

R. F. D. Route—168 Front St. Dates of Residence—From 1920 To—1934.

Name of City, Town, or Village—Alameda. State or Foreign Country—California. Street Address or R. F. D. Route—1215 Park Ave. Dates of Residence—From—1934 To—1937.

Name of City, Town, or Village—Redwood City. State or Foreign Country — California. Street Address or R. F. D. Route—2924 Jefferson Ave. Dates of Residence—From—1937 To—1940.

Name of City, Town, or Village—Columbia Station. State or Foreign Country—Ohio. Street Address or R. F. D. Route—West River Road RFD 2. Dates of Residence—From—1940 To—1941.

Name of City, Town, or Village—Redwood City. State or Foreign Country — California. Street Address or R. F. D. Route—2924 Jefferson Ave. Dates of Residence—From—1941 To—1942.

4. Give the name, address, and country of birth of your parents and indicate whether they are living or not.

John W. Bagley, Canada. Living.

Urina A. Bagley, U. S. A. Living.

#### Series IV.—Participation in Organizations

Instructions.—Questions 1, 2, and 3 in this series must be fully answered. If more space is necessary, attach extra sheets of paper to this page.

1. Have you ever been a member of any military organization or establishment? If so, state the name and address of same and give reasons why you became a member.



(Testimony of George F. Paul.)

Civilian Conservation Corps April and May 1940  
Tulomme, Calif.

2. Are you a member of a religious sect or organization? (Yes or no)—No. If your answer to question 2 is yes, answer questions (a) through (e).

(a) State the name of the sect, and the name and location of its governing body or head if known to you: .....

(b) When, where, and how did you become a member of said sect or organization? .....

(c) State the name and location of the church, congregation, or meeting where you customarily attend: .....

(d) Give the name and present address of the pastor or leader of such church, congregation, or meeting: .....

(e) Describe carefully the creed or official statements of said religious sect or organization in relation to participation in war: .....

3. Describe your relationships with and activities in all organizations with which you are or have been affiliated, other than religious or military: .....

#### Series V.—References

Give here the names and other information indicated concerning persons who could supply information as to the sincerity of your professed convictions against participation in war:

Name—Mable Skinner. Full Address—464 Ruby St., Redwood City. Occupation or Position—Housewife. Relationship to You—None.

(Testimony of George F. Paul.)

Name—Daniel La Fountain. Full Address—2809  
Jefferson Ave. Occupation or Position—Painter.  
Relationship to You—None.

Name—Martha La Fountain. Full Address—2809  
Jefferson Ave. Occupation or Position—House-  
wife. Relationship to You—None.

Name—Thomas Skinner. Full Address—464 Ruby  
St. Occupation or Position—Mechanic. Rela-  
tionship to You—None.

#### Registrant's Affidavit

Instructions.—The claim made on this form will not be considered unless it is supported by the following affidavit. (If the registrant cannot read, the questions and his answers thereto shall be read to him by the officer who administers the oath.)

State of California, County of San Mateo, ss:

I, John (Jack) Woodhouse Bagley, do solemnly swear (or affirm) that I am the registrant described in the foregoing questions and answers, that I know the contents of my said answers, and that each and every statement of fact in my answers to said questions is true, to the best of my knowledge and belief.

(Registrant sign here)

JACK WOODHOUSE BAGLEY.

(Signature or mark of registrant)

(Testimony of George F. Paul.)

Subscribed and sworn to (or affirmed) before me  
this 27 day of August, 1942.

H. E. HOLMQUIST.

(Signature of officer administering oath)

Ass. Member Advisory Board  
#106.

(Designation of officer)

If the registrant has received assistance from an  
advisor, the advisor shall sign the following state-  
ment:

I have assisted the registrant herein named in  
the preparation of this form.

(Signature of advisor)

(Address of advisor)

[Endorsed]: Filed 9/28/43.

### U. S. EXHIBIT NO. 3-b

Supplementary Information for Form 47#

Answer to Question C:—

I am conscientiously opposed to participation in  
war in any form, and cannot conscientiously engage  
even in non-combatant military service because of  
my religious training and Christian beliefs. War  
and Killing are against God's laws and man's laws.

If we do not destroy War now, War will destroy

(Testimony of George F. Paul.)

us. Wars cost too much; they produce economic chaos, they demoralize the people and they waste human life. War breeds war.

Answer to Question II:—

My Parents are Pacifists and so as a child I never had any military toys such as guns, soldiers, cannons etc. As a child I attended Methodist Sunday School and Church. I have never been hunting as I have always been taught it was wrong to kill animals for sport.

I have been taught all my life that war is stupid, a crime against humanity, that when enough people know enough wars will cease.

Answer to Question III:—

My Mother. Mrs. John W. Bagley.

Answer to Question IV:—

I'd defend myself against personal attack, but I wouldn't try to kill anybody to stop them from harming me.

The police are taught not to kill anybody unless it can't be helped. There are other methods for stopping people from doing violence other than killing them.

"Every war after it begins is a war of defense. Trust Politicians and Statesmen for that." Emily Newell Blair. pg 83 "Why Wars Must Cease."

Answer to Question V:—

I have attended many religious services and lectures by pacifists, such as John Nevin Sayre, Norman Thomas, and many others.

(Testimony of George F. Paul.)

I have been contributing toward establishment of World Peace ever since I have been earning enough to do so. I have never been in a fight or seen a prize fight.

Answer to Question V:—(Continued.)

I would not work in a Munition plant at any wage.

Even if my friends or family would turn against me for taking this stand against war, I would still stand my ground.

Answer to Question VI:—

I have talked against war to the majority of people that I have come in contact with ever since the war in Europe started. Wars destroy democracy instead of saving it, war brings no permanent peace, and war degrades humanity since warring men bestialize themselves.

JACK W. BAGLEY,  
2924 Jefferson Avenue,  
Redwood City, California.

[Endorsed]: Filed 9/28/43.

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On October 8, 1942, said board classified defendant 1-A under the Selective Training & Service Act of 1940 as available for general military and naval service and mailed a notice of classification to defendant. Thereafter defendant timely appealed (U.S.Exh.4) from said classification to Appeal Board No. 9 situated in San Jose, California,



(Testimony of George F. Paul.)

and defendant's file was sent, on November 20, 1942, to State Headquarters, Selective Service System, Plaza Building, Sacramento, California, accompanied by a letter of transmittal (U.S.Exh.5), for transmittal to said Appeal Board. The said Appeal Board thereafter by a vote of 3 to 0 on May 26, 1943, affirmed the said 1-A classification of defendant and returned the defendant's file to Local Board 106, accompanied by transmittal letter (U.S.Exh.6), defendant being notified of said decision on June 12, 1943.

U. S. EXHIBIT No. 4

Local Board 106  
San Mateo County  
Schaberg Bldg.  
Redwood City, Calif.

Gentlemen:

I desire to appeal from your ruling classifying me 1-A under the Selective Service Act on the ground that I should have been classified 4-E.

Very Truly Yours,

JACK W. BAGLEY.

[Endorsed]: Filed 9/28/43.



(Testimony of George F. Paul.)

U. S. EXHIBIT No. 5

Appeal Board  
State Headquarters  
Selective Service  
Plaza Bldg.  
Sacramento, Calif.

Gentlemen:

Enclosed herewith are the files of the following  
named registrants of our board.

756	Walter Harry Nordstrom
1077	William Marvin Parkes
S-2011	Logan Holbrook Potter
10481	Wesley J. Curry
11213	Clayton William Buckley
11838	Jack Woodhouse Bagley

very truly yours,

GEO F. PAUL,

Clerk

GFP:ER

Enc.

[Endorsed]: Filed 9/28/43.

(Testimony of George F. Paul.)

U. S. EXHIBIT No. 6

State Headquarters Selective Service  
State of California  
Plaza Building  
Sacramento

November 28th, 1942

Appeal Board No. 9

Subject: Appeals, (9-75)

Gentlemen:

Enclosed is the complete file for the registrant named below:

Name	Order No.	L.B.
Jack Woodhouse Bagley	T-11838	106

These files have been entered in the State Docket Book of Appeals and are now forwarded for your consideration.

Very truly yours,

K. H. LIETCH

K. H. Leitch

State Director of  
Selective Service

[Endorsed]: Filed 9/28/43.

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On July 3, 1943, Local Board 106 sent defendant an order (U. S. Exh. 8) to report for induction into the land or naval forces of the United States on July 17, 1943. On July 16, 1943, [19] defendant wrote and sent to said board a letter (U. S. Exh. 7)

(Testimony of George F. Paul.)

protesting his 1-A classification and demanding a 4-E classification. Defendant did not comply with the July 3rd order to report for induction and on July 17, 1943, said Local Board 106 sent a notice of delinquency, DSS Form 281, (U. S. Exh. 9) to defendant.

U. S. EXHIBIT No. 7

July 16th, 1943

Redwood City, California

Local Board 106

San Mateo County

525 Marshall Street

Redwood City, California.

Gentlemen:

I cannot report for induction July 17th, because altho I have been refused a 4-E classification as a Conscientious Objector, I am still against the use of force as a substitute for intelligent right thinking and intelligent right action. You can reach me any time at my present address and I will be only to happy to appear at your request; but not for induction.

Sincerely Yours,

JACK W. BAGLEY.

Signed

[Endorsed]: Filed 9/28/43.

(Testimony of George F. Paul.)

U. S. EXHIBIT No. 8

Prepare in Duplicate

(Cut)—Selective Service System

(Date of mailing) July 3, 1943

(Local Board Date Stamp With Code)

### ORDER TO REPORT FOR INDUCTION

The President of the United States,

To (First name) Jack (Middle name) Woodhouse  
(Last name) Bagley

Order No. 11838

Greeting:

Having submitted yourself to a local board composed of your neighbors for the purpose of determining your availability for training and service in the armed forces of the United States, you are hereby notified that you have now been selected for training and service in the (Army, Navy, Marine Corps) Land or Naval forces

You will, therefore, report to the local board named above at (Place of reporting) 525 Marshall St. Redwood City at (Hour of reporting) 6:45 A. m., on the 17th day of July, 1943

This local board will furnish transportation to an induction station of the service for which you have been selected. You will there be examined, and, if accepted for training and service, you will then be inducted ~~into the stated branch of the service.~~

Persons reporting to the induction station in some instances may be rejected for physical or other rea-

(Testimony of George F. Paul.)

sons. It is well to keep this in mind in arranging your affairs, to prevent any undue hardship if you are rejected at the induction station. If you are employed, you should advise your employer of this notice and of the possibility that you may not be accepted at the induction station. Your employer can then be prepared to replace you if you are accepted, or to continue your employment if you are rejected.

Willful failure to report promptly to this local board at the hour and on the day named in this notice is a violation of the Selective Training and Service Act of 1940, as amended, and subjects the violator to fine and imprisonment.

If you are so far removed from your own local board that reporting in compliance with this order will be a serious hardship and you desire to report to a local board in the area of which you are now located, go immediately to that local board and make written request for transfer of your delivery for induction, taking this order with you.

-----  
Member or clerk of the local  
board.

D. S. S. Form 150  
(Revised 7-13-42)

[Endorsed]: Filed 9/28/43.

(Testimony of George F. Paul.)

U. S. EXHIBIT No. 9

## NOTICE OF DELINQUENCY

(Cut)—Selective Service System

Local Board No. 106 91

San Mateo County 081

Jul 17 '43 106

Schaberg Building

Redwood City, California

(Local Board Date Stamp with Code)

(Date) July 17th 1943

To (First) Jack (Middle) Woodhouse (Last) Bag-  
ley

Order No. 11838

Dear Sir:

According to information in possession of this local board, you have failed to perform the duty, or duties, imposed upon you under the selective service law as specified below.

( ) To present yourself for, and submit to, registration.

( ) Failed To Report For Induction\*  
(Specify other)

You are therefore directed to report, by mail, telegraph, or in person, at your own expense, to this local board, on or before (Hour) 5 P. m., on the 22 day of July, 1943

Failure to report on or before the day and hour specified is an offense punishable by fine or imprisonment, or both.

GEO. F. PAUL

~~Member or~~ Clerk of the Local Board.

[\*Printer's Note: This line was written in long-hand.]



(Testimony of George F. Paul.)

This form shall be made out in quadruplicate. The local board shall send the original to the suspected delinquent at his last-known address and one copy to the State Director of Selective Service. The date of mailing shall be noted on another copy, which shall be filed. The local board shall post a copy in a conspicuous place for public inspection, and whenever practicable, shall give the information the widest possible publicity.

D. S.S. Form 281

(Revised 9-1-42)

[Endorsed]: Filed 9/28/43.

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The day after defendant failed to report for induction I telephoned to him and told him he had failed to report and asked him to come down and he informed me that he didn't think he would show up. The defendant did not show up and I don't think he answered his Notice of Delinquency. I don't remember. In any event, he never came in person to the Board after that.

#### Further Cross-Examination

Defendant's Exh. A, a letter sent by defendant to Mr. Scott, the government's Appeal Agent, requesting that an appeal from his 1-A classification be taken, which refers to U. S. Exh. 3-B was filed with Local Board 106 on October 27, 1942. I don't know whether Local Board 106 did anything or took any action on Defendant's Exh. A after receipt thereof. Local Board 106 has in its files a report (Defs. Exh. C) from Hugh McKevitt, Hearing Officer,

(Testimony of George F. Paul.)  
containing his findings of fact and conclusions. Local Board 106 received defendant's letter, dated June 23, 1943, (Defendant's Exh. B) requesting a hearing by said board for reclassification as 4-E but said Board took no action thereon.

### DEFENDANT'S EXHIBIT A

Redwood City, Calif.

October 27th, 1942.

Dear Mr. Scott:—

Will you please file these more explicit answers to questions in Form 47 ~~#~~ for Conscientious Objectors with the information which you now have.

Yours Very Truly,

JACK W. BAGLEY.

[Endorsed]: Filed 9/28/43.

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### DEFENDANT'S EXHIBIT B

11838

Redwood City, California.

June 23rd, 1943

Local Board 106  
San Mateo County  
525 Marshall Street  
Redwood City, California.

Gentlemen:

I am writing to Major-General Lewis B. Hershey requesting that he appeal my case to the President.

I am respectfully submitting a request to you for a stay of induction until such time as I can receive

(Testimony of George F. Paul.)

a reply from Major-General Hershey. I hope that you will accord me your co-operation in granting a stay of induction.

Respectfully Yours.

JACK W. BAGLEY

Signed.

Request For Presidential Appeal

By Conscientious Objector

Redwood City, Calif.

June 23rd, 1943.

Major-General Lewis B. Hershey  
National Director of Selective Service  
21rst. and C Streets N. W.  
Washington, D. C.

Dear Sir:

I am a Conscientious Objector. I have taken the necessary steps appealing for a IV-E Classification. I have been classified I-A by the Appeal Board.

Life is a gift of God. I have no right to take life. This is my deepest conviction. I believe in the Brotherhood of Man and that only through Love can we ever have a peaceful world. Love destroys hate. Good destroys evil. I believe that there are certain fundamental Universal Laws that govern Mankind and until we recognize these laws we will continue living in chaos. I have a vision of a world free from poverty and war. I will do any constructive work under civilian direction.

The Hearing Officers Report states that my

(Testimony of George F. Paul.)

mother has put all these ideas in my head. My mother and father are unusually intelligent well informed people. I have been ill a greater part of my life. That is the reason my mother has had to spend so much time with me. While attending school I could not take an active part in Scholastic activities or sports. Consequently I had an inferiority complex.

I want to state that I am sincere in my stand and that I feel that none of my past life has any bearing whatsoever on the fact that I cannot take human life or affiliate myself with the Armed Forces.

I am sending a digest of the Hearing Officers Report and rebuttal to the evidence found therein.

I respectfully submit a request for you to appeal to the President in my behalf and grant a stay of induction while my case is reviewed.

Thanking You,

JACK W. BAGLEY

Signed

[Endorsed]: Filed 9/28/43.

(Testimony of George F. Paul.)

DEFENDANT'S EXHIBIT C

11838

REPORT OF HEARING CONDUCTED BY  
THE DEPARTMENT OF JUSTICE PUR-  
SUANT TO SECTION 5(g) OF THE  
SELECTIVE TRAINING AND SERVICE  
ACT OF 1940.

IN RE: JACK WOODHOUSE BAGLEY  
(CONSCIENTIOUS OBJECTOR)

Appeal From

Local Board No. 106

Redwood City, San Mateo County, California

Appeal Board No. 9

San Jose, Santa Clara County, California

File No. 25-4721

25-9962

Preliminary Statement

Name and Present Address of Registrant:

Jack Woodhouse Bagley

2924 Jefferson Avenue

Redwood City, California

Questionnaires Filed:

D. S. S. Form 40—August 25, 1942

D. S. S. Form 47—August 27, 1942

Nature of Claim for Exemption:

From both combatant and noncombatant mili-  
tary service.

(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

Action by Local Board:

Classified as 1-A.

Action by Board of Appeal:

Board of Appeal has reviewed the file of registrant and has determined that the registrant should not be classified in Class I-C, Class IV-F, Class IV-D, Class IV-C, Class IV-B, Class IV-A, Class III-B, Class III-A, Class II-B, Class II-A, or Class I-H, December 16, 1942.

Date File Received by Department of Justice:

December 17, 1942.

Date File Received by Hearing Officer:

March 10, 1943.

Date of Giving Notice of Hearing:

March 11, 1943.

Hearing Held Pursuant to Notice:

At Room 449, Post Office Building, 7th and Mission Streets, San Francisco, California, on March 23, 1943.

Registrant personally appeared at the hearing in response to the notice mailed him, and was accompanied by his father and mother.

## STATEMENT OF FACTS

1. Registrant was born on July 29, 1920 in Cleveland, Ohio. His education consisted of eight years of elementary school, three and one-half years of high school, and three months of a shipfitting



(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

course. Registrant is presently employed by the Peninsula Chevrolet Company in Palo Alto, California.

2. The hearing developed the following facts:

Registrant stated that he is not a member of any church at the present time; that he was baptized into the Methodist church when he was a baby, but has not attended this church for a year; that prior to coming to California, he had attended this denomination about once a month. Registrant further stated that he is not willing to accept noncombatant service, for the reason that he does not believe in war and sees no reason for it. In view of the fact that the record shows that registrant worked for Bethlehem Steel Company in San Francisco, the Hearing Officer questioned registrant as to how he reconciled his working in an industry directly connected with the war effort with his claims as a conscientious objector to both combatant and noncombatant military service. The registrant replied that, "they paid pretty good money", and "I had to work some place".

Registrant was accompanied at the hearing by his mother. This witness continually interrupted the Hearing Officer when he was questioning registrant, and would not permit registrant to make his own statements as to his beliefs or claims. When the Hearing Officer was asking registrant about his work in defense industries, this witness interrupted and stated that although registrant worked there,

(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

he could not stand it because the work was abhorrent to him, and quit this work on different occasions, but went back because this work was the only kind available.

She further stated that the family had at one time been members of the Methodist Church, but they dropped out of this church because they "have not been satisfied with the church leadership anywhere, because too much hypocrisy has entered into church leadership". She further stated, "We, as a family, believe in the Golden Rule and Christian principles, and our record in that regard can be looked into." This witness further said that she feels that one does not have to regularly attend a church to have Christian principles.

This witness interfered with all questions asked by the Hearing Officer, and attempted to dominate the trend of the entire hearing. She demanded to know what recommendation the Hearing Officer would make of this case. When the Hearing Officer replied that his recommendations were confidential, she said "I have a right to know what goes on". She further demanded to be told what disposition Washington, D. C. would make of the case, and from whom in Washington she could obtain this information.

Registrant's father testified that registrant had been raised in a Christian home, and had been taught Christian principles.

(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

Registrant submitted two affidavits at the hearing, copies of which are attached to this report.

3. A review of the investigative report of the Federal Bureau of Investigation in this case is as follows:

An informant, a former neighbor, reported that he was a neighbor of the registrant and his family for ten years or more until 1934 when the registrant's family moved from that neighborhood; that during the period of residence, the registrant was a small boy and nothing was known concerning him, except that he appeared to be quiet and very much confined by his mother; that at this time the registrant was reported to be suffering from a nervous disorder and it was for this reason that the registrant did not associate with the other children in the neighborhood; that the family was well thought of and never to informant's knowledge did they profess any strong religious tendencies; that informant never heard the registrant's parents state any particular views in regard to war and allied subjects.

Another informant, a close friend of the registrant's family for a number of years, and since 1934, when the registrant's family moved to California, has carried on a correspondence with registrant's mother, states that registrant's mother reveals an anti-war attitude in her letters; that the letters written by registrant's mother were almost entirely devoted to the explanation of registrant's

(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

attitude. Informant stated that she had seen registrant about a year ago and that he was a rough and blustery type of individual and at that time expressed no objections to the war nor to the Selective Service Act; that registrant's father was reported to have written a strongly worded pacifistic poem about two years ago and mailed this to informant; that it is the opinion of informant that the registrant's present stand is a result of his mother's and father's influence.

Another informant, a former neighbor, reported that registrant and his family, although attending the local Methodist church, were never known to be more than average church-goers; that registrant's father impressed informant as being "peculiar"—informant was unable to specify particulars in this regard; that never at any time to informant's recollection was war a topic of conversation between him and the registrant's parents; that the local reputation of the registrant's family was good.

An informant was acquainted with the registrant's father when the family resided in Berea, Ohio, and stated that the father of the registrant was known to informant as a satisfactory member of the community and never gave any indication of any pronounced religious tendencies or theories in regard to war.

Another informant, principal of the Berea High School, produced the school record of the registrant covering his two years of attendance at this high

(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

school. Informant has no personal recollection of the registrant but faintly remembers the family. The records did not reveal that the registrant had ever had any disciplinary action taken against him by school officials and at that time the registrant was excused from a physical education course for physical reasons. The family of the registrant was remembered by informant to have been responsible members of the community.

The record of the Berea Police Department failed to reflect the name of the registrant.

Another informant, Columbia Center, Ohio, is an aunt of the registrant and also a former employer. She stated that registrant worked and lived in Columbia Center for two years up until some time in 1941, and her first remark upon being confronted by the agent was one of deep dismay that her nephew had taken this stand and stated, "It is all his mother's fault." Then informant went on to report that the registrant and his family have always had a deep feeling against war because the grandfather of the registrant had been injured in the Spanish-American War and remained an invalid the rest of his life and this fact has preyed upon the minds of the registrant and his family, and in the opinion of informant, it is responsible for the family's feeling regarding war services; that registrant was never a religious type. Informant visited the registrant and his family in San Fran-



(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

cisco about a year ago when the registrant was employed as a ship fitter in a ship building company. She further stated that at that time the registrant spoke against his job, saying he was "building instruments of war and did not like it," and he expressed the desire to quit; that she believes the registrant is wholly sincere in the stand he has taken.

An informant, who is listed as an employer of the registrant, stated that he had never employed the registrant; that the registrant used to come to his garage and tinker around with machinery there, but he was never considered an employee; that registrant was reported to have stated that he did not think he would have to go to war; he would get out of it on the ground of his being a farm worker or because he was physically unfit; that so far as informant knew, the registrant never expressed any objections to war nor was he at all religious; that he was quite surprised to hear the registrant had made such a claim. The informant said that while in Columbia Center the registrant never had any trouble, nor was he ever seen to use force in any manner.

Another informant who operates the general store at Columbia Center, knew the registrant while he was working on his aunt's farm a couple of years ago and stated that registrant was a rather bragging type of individual who talked much concerning his own ability to do things; that no religious leanings were ever displayed by the registrant to



(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

informant's knowledge; that informant, who is also the constable in this community, reported that registrant has never had any trouble with the law enforcement officials there.

An examination of the files of the Redwood City Police Department divulged that registrant's parents were members of the Mankind United Organization and that his mother held the rank of a captain. The Police Department records also contained the registrant's name as a possible suspect in a theft of an automobile aerial which occurred two years ago, but no disposition of the case could be found. An examination of the records of the Sequoia High School at Redwood City divulged that registrant was a very poor student and was expelled for cutting classes and his card contained the following notations: "Mother hovers him too much;" "Has been ill when young;" "Needs social adjustment;" and "Takes no part in class activity."

An informant stated he had been acquainted with registrant since 1934 when he entered the Sequoia High School and described him as bull-headed and as objecting to any established order, regardless of what its purpose might be; that he was a bully type boy and considered very lazy and very insincere in any stand he might take as a conscientious objector to serving in the war; that he was not surprised at all as he did not know of anything which this boy at one time or another had

(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

not objected to; that he could not say for certain that registrant had not attended any church during the past year or year and one-half, but felt that all the registrant's school troubles were due to the fact that his mother continually interfered.

Another informant stated he was well acquainted with registrant and believed him to be unstable and of a very flighty nature; that registrant was not a deep thinker and informant was very surprised that registrant was a conscientious objector as he had never evidenced any interest in social problems and he had been only concerned with his own welfare; that he doubted very seriously that registrant had any motive other than self-preservation in taking this stand.

An examination of the records of Alameda High School disclosed that registrant had attended there from January 28, 1935 to September 10, 1937; that he was a very poor student and had an above average I. Q. At the Alameda High School, an informant stated that registrant was considered a "problem" and felt that he would be a liability to the Armed Forces as his morale was very low and he was unable to take discipline of any type; that he had never evidenced any religious convictions and in fact had had no convictions towards anything other than the "path of least resistance." Informant further stated that objecting to war was entirely in keeping with registrant's nature, but that she felt his objection would be based on the

(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

fact that most other young men were serving their Country, and that registrant by nature refused to do anything that was "in the established order."

An informant stated that there was no doubt in her mind that registrant's stand as a conscientious objector was derived from his mother's interest in the Mankind United Organization, and that any statements registrant might make were put in his head by his mother who distributed Mankind United Pamphlets throughout the community and had made such statements as "some people have too much money", and "The monied men caused this war;" that on several occasions, she had heard registrant call his mother very vile names when she has disagreed with him on a minor matter and remembered one occasion when registrant and mother were having some disagreement, registrant called his mother several particularly vile names and then backed his car out of the driveway so fast that he ran off the road and into the adjoining field; that registrant had been in the C.C.C. camp at one time, but his mother had obtained his release as she felt that the work of blazing trails was too strenuous for her son.

Another informant stated she had no opinion concerning registrant's stand as a conscientious objector and did not know the family very well, but had heard registrant curse his mother very vilely several times.

(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

An informant stated that registrant's mother had contacted her several times to interest her in the Mankind United Organization but came so often and talked so much that it interfered with informant's normal household duties and she had to slight informant's mother to get rid of her; that she was positive registrant had no religious convictions or affiliations, and that his beliefs were derived from his mother's teachings against the present United States Government and its methods of operation.

Another informant stated that registrant and his mother had come to him and advised that they were filling out a conscientious objector's questionnaire for the registrant and warned him that there would be an FBI agent contacting him in the future in an attempt to "cross him up", and asked that informant be particularly careful that he say nothing that would hurt the boy's chances of obtaining war deferment. The informant was very reluctant to give further information.

An informant stated that he was well-acquainted with registrant and his mother and was positive registrant had no convictions of his own, and that his mother had counseled him in the filling out of his Form 47; that the boy in his opinion was a "no good" and the mother a "crackpot", who continually preached that "something was going to happen", and insinuated that it might be in a revolutionary form; that he felt for a long time that

(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

this family should be investigated as he felt them to be very poor Americans, and that he would not doubt that they were engaging in some form of un-American activity; that he felt registrant's mother to be a "nuisance." Informant stated he had signed a testimonial to registrant's sincerity of belief as a conscientious objector but had done so under extreme pressure and with great misgivings.

The head of the shipfitting department of the Steel Company, San Francisco, California, stated that registrant had been employed there from September 22, 1941 to June 30, 1942, and again from August 7, 1942 to November 7, 1942, and his employment was terminated due to illness; that registrant worked as a machinist helper in the construction of naval cruisers and added that this branch of the Bethlehem Steel Company was engaged chiefly in manufacturing naval vessels and added that registrant's rate of pay had been \$1.07 per hour; that this type employment was unusual for a conscientious objector as it was actually working for the Navy, except at a better rate of pay, and he did not feel any of his workers could be sincere conscientious objectors.

## FINDINGS OF FACT

The Hearing Officer can find nothing in the record to sustain registrant's claim as a conscientious objector. The people contacted by the Federal Bureau of Investigation reported that he had never



(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

manifested any actions of a religious person. He stated that he does not now attend any church, nor did he profess to any religious doctrine upon which he bases his beliefs. The investigative report of the Federal Bureau of Investigation shows that his mother is actively working for the organization "Mankind United", and these informants state that he probably obtained his conscientious objector beliefs from this organization and the influence of his mother. It is to be noted, that at the hearing neither registrant or his mother mentioned any connection with the organization "Mankind United". Registrant has not exhibited any religious tendencies in the conduct of his daily life.

### CONCLUSIONS

The Hearing Officer finds that registrant is not "by reason of religious training and belief" opposed to either combatant or noncombatant military service, and therefore recommends that the appeal of registrant be not sustained, and he be retained in classification 1-A.

Dated: March 25, 1943.

HUGH K. McKEVITT,

Hugh K. McKevitt

Hearing Officer.



(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

Redwood City, Calif.

March 20, 1943

To Whom It May Concern:

I have known Mr. John W. Bagley, Jr. for one and one half years. He comes from a family of high ideas and who, for humanitarian as well as Christian beliefs, object to war or the taking of human life in any manner.

Due to the training by his parents, Mr. Bagley, Jr. is living, as best he can, his life in a Christian-like way.

I am happy to have the opportunity to state that I believe he is absolutely honest and sincere in all statements and actions made by him in the stand he is taking as a conscientious objector.

L. D. BULLIS,

449 Jackson Ave., Redwood  
City, Calif.

Acknowledged.

March 17, 1943

To whom it May Concern:

This is to certify that I, the undersigned, E. S. Taylor, have known Mr. Jack W. Bagley, of 2924 Jefferson Ave., Redwood City, Calif., for the past two years, and believe him to be of excellent moral character, sober, industrious, and with a sincere belief in the divine law of brotherhood.

I am sure that with such belief, he would find it impossible to willfully harm his fellow man. I also believe him to be of great courage—as I know

(Testimony of George F. Paul.)

Defendant's Exhibit C—(Continued)

the stand he has taken requires much more moral courage, than would acquiescence in the demands made upon him.

Signed                      E. S. TAYLOR,  
RFD Box 317-A, Menlo Park,  
Calif.

Subscribed and sworn to.

[Endorsed]: Filed 9/28/43.

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Counsel for the respective parties thereupon stipulated as follows:

“When a registrant who claims to be a conscientious objector appeals from the decision of the local board, the case goes to the Board of Appeal. The appeal board first decides whether or not the registrant is entitled to any other classification other than a conscientious objector. If not, the file is thereafter sent to the United States Attorney's office, which in turn transmits it to the Federal Bureau of Investigation. The Federal Bureau of Investigation makes *makes* its investigation, and that after such investigation, the file, together with the FBI report, is transmitted to a hearing officer. The Hearing Officer, after calling in the registrant and his witnesses, after a hearing, makes his recommendation to the Department of Justice as to whether or not registrant is entitled to a conscientious objector classification. The Department of Justice then makes its [20] recommendation to the

(Testimony of George F. Paul.)

Board of Appeal as to whether registrant is entitled to a conscientious objector classification.”

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### TESTIMONY OF JOHN A. COST

John A. Cost, produced as a witness on behalf of the United States, being first sworn, testified as follows:

I am a special agent of the Federal Bureau of Investigation. On July 29, 1943, at Redwood City, California, I had a conversation with the defendant in the presence of Kyle Tacett who is a special agent of the F. B. I. At said time and place the defendant stated that he had registered and had received a 1-A classification; that he had appealed therefrom and that he was classified as 1-A after said appeal; that he had received his order to report for induction on July 17, 1943, but that he had not reported; that the chairman of the local draft board telephoned him two days later and asked him if he intended to report and that he said he had no intention of so doing because he was conscientiously opposed to it. I asked him if his claim were true why he previously had worked for the Bethlehem Steel Co. and he said he knew that he had been wrong but that he needed money to contribute to Mankind United. I asked him what the basis of his conscientious objection was and he stated that some resulted from his mother's teaching, some from his own ideas, and some of his ideas from Mankind United.

## TESTIMONY OF ARTHUR V. SWIFT

Arthur V. Swift, produced as a witness on behalf of the United States, being first sworn, testified as follows:

I am and ever since October, 1940, have been chairman of Local Board 106. After defendant had originally been classified 1-A he was never again classified. Local Board 106 never reopened defendant's case and never granted defendant a new classification and the defendant never presented any new evidence for consideration by the board relating to his classification [21] on October 5, 1942, or ever. Said local board did not reconsider the defendant's claim for classification 4-E at the time he appeared before said board because he did not submit further information to said board. I do not recall ever having seen U. S. Exh. 3A and 3B and my attention was never called to them and I have no recollection of U.S. Exh. 3B ever having been submitted or considered by Local Board 106 or any of its members. The records indicate that defendant's appeal was not completed, that is, the records were not transferred to the Appeal Board until November 20, 1942. I do not recall ever having seen U. S. Exh. 3B or having acted upon it and I find nothing in the record showing any minutes of any action taken thereon.

Whereupon the plaintiff rested.

## TESTIMONY OF JACK W. BAGLEY

Jack W. Bagley, the defendant, called as a witness on his own behalf, being first duly sworn, testified as follows:

## Direct-Examination

I was born in Cleveland, Ohio, and have been a resident of the State of California since July 1, 1937. In the early part of October, 1942, I wrote and sent to Local Board 106 a letter in which I requested the right of appearing before it. In said letter I also stated that I had signed the clause in the general questionnaire referring to conscientious objectors and wanted to appeal the 1-A classification it had given me instead of the classification to which I believed I was entitled. On or about October 5, 1942, I appeared in person before said board consisting of four members and the secretary thereof. Mr. Paul, a member of the board, told Mr. Swift, a member thereof, at said time that I was a conscientious objector and wanted to appeal my classification 1-A. Mr. Swift stated that I had a constitutional right to do so and he placed the case in the hands of the local appeals agent. Nothing was said by any member of said [22] board to me at said time to the effect that I had the right to present any evidence to said board and I was not then or thereafter given any opportunity to present any evidence to it. No discussion was then had at all about my claim to be classified as a conscientious objector, the interview lasting between five and ten minutes. Thereafter I received in the mail

(Testimony of Jack W. Bagley.)

from Hugh K. McKevitt, Hearing Officer, a letter, (Def. Ex. D), setting March 23, 1943, as the time for a hearing on my classification claim.

## DEFENDANT'S EXHIBIT D

Department of Justice

Office of the Assistant to the Attorney General  
Washington

Revised October 10, 1942.

### INSTRUCTIONS AND DIRECTIONS TO REGISTRANTS CLAIMING EXEMPTION AS CONSCIENTIOUS OBJECTORS

Pursuant to the provisions of Section 5(g) of the Selective Training and Service Act of 1940 and Section 627.25 of the Selective Service Regulations, the Department of Justice is required to make an inquiry and to hold a hearing with respect to the character and good faith of the objections of each registrant whose claim for exemption from training and service under the said Act on the ground that he is conscientiously opposed to participation in war has been denied (or granted) by a local board, and an appeal has been taken to an appeal board.

1. In each instance, the hearing will be conducted by a duly designated Hearing Officer, and the registrant will be duly notified by the Hearing Officer of the place and time fixed for the hearing on his claim.



(Testimony of Jack W. Bagley.)

2. Upon receipt of the notice of hearing by the registrant, and before the date and time set for the hearing, the registrant should communicate in writing with the Hearing Officer and advise whether he will appear at such hearing.

(a) If it is impossible for the registrant to appear on the date and at the time scheduled, he should state to the Hearing Officer in writing the reasons which make it impossible for him to do so, and request postponement of the hearing which, in the discretion of the Hearing Officer, may be granted, and a new date and time scheduled.

(b) If the registrant, without explanation, does not appear for hearing, the Hearing Officer will consider the registrant to have waived his right to hearing, and will proceed to make his recommendation on the basis of the record and evidence contained in the registrant's Selective Service file.

3. If, at the time of receipt of notice of hearing, the registrant no longer desires to be considered as a conscientious objector, he should immediately address a letter to the Hearing Officer stating that he will not appear for hearing and that he desires to withdraw his claim for exemption as a conscientious objector.

4. At the hearing, the registrant, at his request, will be informed by the Hearing Officer as to the general nature and character of any evidence dis-

(Testimony of Jack W. Bagley.)

closed by the investigation which is unfavorable to, or tends to defeat, his claim for exemption as a conscientious objector, and the registrant will be afforded an opportunity to explain or rebut such evidence.

[Longhand in margin] "Important."

5. At the hearing before the Hearing Officer of the Department of Justice, the registrant will be permitted to make a full and complete presentation of his claim. He may bring with him to the hearing as witnesses any persons who have personal knowledge of facts concerning his religious training and belief and concerning the character and good faith of his objections to participation in war.

6. The registrant may bring with him and submit at the hearing written statements of persons not present at the hearing containing facts and information within their personal knowledge concerning the registrant's religious training and belief and the character and good faith of his objections to participation in war. Such statements shall be sworn to before a notary public or other person authorized to administer oaths. The registrant may also submit at the hearing any papers or documents, or certified copies thereof, tending to support his claim.

7. The hearing will not be in the nature of a trial or judicial proceeding, but will be informal and non-legalistic. Registrants will not be required to adhere to the ordinary rules of evidence. It

(Testimony of Jack W. Bagley.)

will not be necessary for the registrant to be represented at the hearing by an attorney. The registrant may bring with him a relative or friend or other adviser, who may sit with him at the hearing. Such persons, whether an attorney or not, will not be permitted to object to questions or make any argument concerning any evidence or any phase of the proceeding. The hearing will at all times be under the direction and control of a duly designated Hearing Officer, who may terminate the proceeding upon the violation of these instructions by the registrant or his adviser.

8. Ordinarily, no stenographic record of the oral testimony given at the hearing will be made. However, the Hearing Officer may, in his discretion, have such record made.

JAMES ROWE, JR.,

The Assistant to the Attorney General

### NOTICE OF HEARING

<u>San Francisco</u>	<u>California</u>	<u>March 11, 1943</u>
City	State	Date

To: Jack Woodhouse Bagley  
Name of Registrant

<u>2924 Jefferson Avenue</u>	<u>Redwood City</u>	<u>California</u>
Street Address	City	State

You are hereby notified that on March 23rd, 1943,  
Month Day

<u>in Room 449, Post Office Building, 7th and Mission</u>
Building Street Address

(Testimony of Jack W. Bagley.)

Streets, San Francisco, California, at 10:00 o'clock

---

City

State

Hour

A.M. a hearing will be held by a duly designated officer of the Department of Justice to consider your claim for exemption from training and service under the Selective Training and Service Act of 1940 by reason of your alleged conscientious objection to participation in war. You have a right to be present at such hearing and to present any pertinent evidence in support of your claim.

HUGH K. McKEVITT

Hearing Officer

Hugh K. McKevitt

Address: 1620 Russ Building  
San Francisco, California

Answered 3/17/43.

Note: There is enclosed a copy of "Instructions and Directions to Registrants Claiming Exemption as Conscientious Objectors". These instructions should be noted and the directions carefully followed so that your claim for exemption as a conscientious objector may be properly determined.

[Endorsed]: Filed 9/28/43.

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In response to said letter I appeared before said Hearing Officer in the Post Office Building in San Francisco, on March 23, 1943, accompanied by my mother and my father. I informed him that

(Testimony of Jack W. Bagley.)

those who accompanied me were my mother and father. He then asked me where I was born, where I worked, where I lived and routine questions like that and why I worked at the shipyards and I told him it paid good money for unskilled labor. Thereupon his examination was concluded. I did not make any further explanation to him as to why I was working in a shipyard and was not given an opportunity so to do. Mr. McKevitt closed the hearing by saying "Good day, folks. Thanks for coming in".

During the hearing my mother asked Mr. McKevitt if there was any evidence against me, to which he replied "No". None of the material which had been introduced in evidence at this trial and which was contained in the report of the F.B.I. was disclosed to me by Mr. McKevitt and he would not let me see it at all. Mr. McKevitt did not tell me that he had any information against me. I did not know of the existence of the report of the F.B.I. until I later started to make my appeal to the President after an adverse ruling had been received by me from the appeal board denying me a classification of 4-E and affirming my classification of 1-A. During the first part of July, 1943, I appealed the 1-A classification to the National Director [23] of the Selective Service System to appeal on my behalf to the President. The first knowledge I had of the contents of said F.B.I. report was when I went to the local draft board and saw it during the first part of July, 1943, when I

(Testimony of Jack W. Bagley.)

was about to initiate my appeal to the National Director, Major General Hershey, by making a request to him to appeal on my behalf to the President. In my letter to the National Director I enclosed a digest of the hearing officer's report (Def. Exh. E).

## DEFENDANT'S EXHIBIT E

### Copy

Digest of Hearing Officers Report and Rebuttal  
Case of Jack Woodhouse Bagley Order No. 11838  
Conscientious Objector

The Hearing Officer's Report stressed any evidence disclosed by the investigation which was unfavorable to my claim for exemption as a Conscientious Objector.

It stated that I had not been a regular church goer, had not been to church for over a year, and belonged to no church.

It stated that because of religious training and beliefs, I was not a Conscientious Objector and should not be classified IV-E.

My parents and I were dissatisfied with the attitude of the church towards war and felt that the church had gotten away from Christ's teachings. For the past five years my religious training has come from study of the literature of the Mankind United Movement. From a study of that teaching I can see that the Christ's teaching is the only plan left for man to serve if he is to escape destruction. We believe in the Fatherhood of God



(Testimony of Jack W. Bagley.)

and the Botherhood of Man. In the Golden Rule as our guide. We are against the use of brute force by human beings. Against bloodshed as a substitute for intelligent thinking and intelligent action in the affairs of Mankind. Against intolerance—whether of another Religion, Race or Occupation.

It states that I was expelled from Sequoia Union High School.

That is not true. When visited by my mother the Dean said that I could return to school the next day. ✓

It states that I am only interested in my own welfare and have only taken these steps for self-preservation. That is not true because I have put every cent I could spare into Mankind United to promote peace, because I love humanity.

It was stated that I never expressed any religious inclinations or objections to war. That is not true. I have always talked pacifism. ✓

It states that one of the persons who signed his name as a reference on Form 47, did so under extreme pressure, with great misgivings. That is not true because this person signed willingly and has always taken a kindly interest in me. ✓

It was stated that because I worked in the shipyard I could not be conscientious in my stand. The wages attracted me because they enabled me to increase my support of Mankind United.

It was stated throughout my report that my mother's influence caused difficulties throughout my

(Testimony of Jack W. Bagley.)

life. This statement is not true. Any difficulties I may have had were caused by ill health and my own wrong thinking.

The only good things brought out in my report were that no one had ever seen me use force and if I had taken the stand as a Conscientious Objector I was sincere about it.

Sincerely yours,

JACK W. BAGLEY

Signed

Note: The local Board classified me 1-a without a hearing. When I appealed from their decision I went before the Board and they told me I had the constitutional right to appeal and put my case in the hands of the local appeal agent. (that was all that was said).

I feel that the local board, as well as the Hearing Officer, Hon. Hugh K. McKevitt, should have given me an opportunity to make a full and complete presentation of my claim.

[Endorsed]: Filed 9/28/43.

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### Cross-Examination

At the hearing before the appeal board, Mr. McKevitt asked me if there was anything inconsistent about my working in the shipyard and claiming exemption from service in the armed forces as a conscientious objector. I replied to him that it was paying big money for unskilled labor. I see

(Testimony of Jack W. Bagley.)

something inconsistent between working on destroyers in the shipyards and being a conscientious objector to going into the service. I felt that putting the money in for something that was good would compensate for working in the shipyards. After writing to the National Director of Selective Service asking him to appeal to the President from my classification of 1-A I did not receive an answer from him and consequently cannot say whether he appealed on my behalf. I know that I could not appeal unless one member of the board of appeals dissents and that no member of the appeal board dissented on my behalf. My religious beliefs, my conscientious objections to going into the service is predicated on home influence, which started from the church. I do not believe my objection to going into the service arose on account of Mankind United, but upon my home training. My home training is not the teaching of Mankind United, but it follows the same trend. Mankind United is not a religious organization, my impression of it being that it<sup>e</sup> is a Christian cooperative organization which plans to abolish causes of war and poverty. I do not consider [24] it as a church. I contributed money to Mankind United, turning it into the Bureau Manager, at its office in Redwood City. I do not know to whom, if to anybody, the bureau manager delivers the money. I do not know who is the head of Mankind United.

(Testimony of Jack W. Bagley.)

Re-direct Examination

I would characterize Mr. McKevitt's attitude at my hearing as being more or less bored with the whole thing. I no longer work in a shipyard. I was employed in a shipyard for approximately one year. From the day I started to work there I had hesitation and trouble in my own mind about continuing that type of work, because of my conscientious objection to war and, consequently, terminated my shipyard employment approximately a year ago. I have never seen the F.B.I. report on my case. I saw the report of the Hearing Officer at the office of the Local Board a couple of months after the hearing before him. The Local Board refused to let me see the Hearing Officer's report until I telephoned to State Headquarters and received permission to see it at the Local Board.

Re-Cross Examination

I terminated my employment in August of last year. I received my 1-A classification on Oct. 8, 1942, but I was working in the shipyard on August 25, 1942, when I filled out my Selective Service questionnaire (letter of defendant to Local Board 106 dated Oct. 17, 1942, admitted into evidence as U.S. Exh. 10).

(Testimony of Jack W. Bagley.)

U. S. EXHIBIT No. 10

[Stamped]: Oct 19 '42

10/17/42

Local Board No 106  
San Mateo County,  
Schaberg Bldg.  
Redwood City, Calif.

Gentlemen:—

In reference to Bethlehem Steel Company's report of my termination July 1st 1942, I stopped work because of ill health. I have hired back with the Co. and have been working there since August 7th 1942.

Yours very truly

JACK W. BAGLEY.

[Endorsed]: Filed 9/28/43.

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U. S. EXHIBIT No. 11

(Postcard)

Bethlehem Steel Company  
20th & Illinois Streets  
San Francisco, Calif.  
Shipbuilding Division

[Stamped]: San Francisco Calif. Nov 9 '42  
Selective Service  
Local Board #106  
Redwood City, California

(Testimony of Jack W. Bagley.)

11838

[Stamped]: Nov 18 '42

Date Nov 7 1942

Registrant: Bagley, Jack W.

Order No.....

This is to Notify the Board of the Following:

- ☐ Termination of employment effective Nov 7 1942
- ☐ Change of address to 2924 Jefferson Avenue,  
Redwood City, Calif.

G. H. ASHLEY

Employment Department

[Endorsed]: Filed 9/28/43.

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I quit working for Bethlehem Steel Co. on November 7, 1942. I have never made a claim for deferment from military service on the ground that I was engaged in shipbuilding.

I was given an opportunity to see the report of the hearing officer at the office of the local board in June or July of 1943, a couple of months after hearing was had before Mr. McKevitt. I have never seen the F.B.I. report itself. I was shown the hearing [25] officer's report, after I had first phoned to State Headquarters in Sacramento to obtain permission to see said report. Prior to receipt of said permission the local board refused to permit me to see said report.



## TESTIMONY OF URINA BAGLEY

Urina Bagley produced as a witness on behalf of defendant, being first sworn, testified as follows:

I am the mother of the defendant. The defendant has lived with me and my husband, his father, during the whole of his lifetime, with the exception of a short time he spent at the CCC camp. I was present at the time my son, the defendant, appeared before Mr. McKevitt in March, 1943. The persons present were as follows: Mr. McKevitt, his stenographer, my husband, my son, the defendant, and I. Mr. McKevitt asked Jack routine questions as to his name and age and where he was working at that time. My son stated he was then working at the Peninsula Chevrolet in Palo Alto. Then he asked where he worked before that and my son replied the Bethlehem shipyard. Mr. McKevitt asked him why he worked there and my son replied that it paid well, whereupon Mr. McKevitt stated "Well there are other places you could have worked at". He also asked if he went to church and my son replied he went to church occasionally. I told him that I had been a member of the Mankind United; that my husband and I were members of the Methodist Church, but that during the past year or so we had not attended regularly because we were dissatisfied with the attitude of the church leadership in regard to war. I told him we were opposed to war as the way of settling civil and inter-national disputes, and that we felt there were other ways of settling these

(Testimony of Urina Bagley.)

things; that through following Christ Jesus' teachings we could have peace and harmony. Mr. McKevitt told us he had to hurry because he had several other cases. The word "important" written on defendant's Exh. D. is the handwriting of my son, the defendant. [26] Mr. McKevitt did not give my sone a full opportunity to explain his stand, and I asked Mr. McKevitt if he would have an opportunity and if there was anything unfavorable in the F.B.I. report and he said that there was nothing in the report that was unfavorable. I asked Mr. McKevitt twice whether there was anything unfavorable to my son in the F.B.I. report and each time he stated "None".

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#### TESTIMONY OF JOHN W. BAGLEY

John W. Bagley produced as a witness on behalf of defendant, after being first sworn, testified as follows:

I am the father of the defendant; I was present at the hearing held by Mr. McKevitt in March of 1943. Mrs. Bagley, my wife, twice asked Mr. McKevitt if there was anything in the report unfavorable to our son, the defendant. Mr. McKevitt answered "None".

Thereupon defendant offered in evidence defendant's Exh. F., to-wit, a memorandum to Hearing Officers signed by the Attorney General, and which had been marked for identification, to the introduc-

tion of which plaintiff objected. The objection was sustained by the court and defendant excepted thereto. Thereupon the taking of testimony was concluded and the defendant rested.

## DEFENDANT'S EXHIBIT F

(For Identification)

Office of the Attorney General

Washington, D. C.

February 11, 1941

Memorandum to Hearing Officers Appointed Pursuant to Section 5(g) of the Selective Training and Service Act of 1940

In conducting hearings with respect to the character and good faith of the objection of those persons who claim that they are conscientiously opposed to participation in war in any form, the Hearing Officer should be governed by the following instructions:

1. As promptly as possible after receipt of such file, the Hearing Officer should make a careful examination of the record, including the Selective Service questionnaire (D.S.S. Form No. 40) and the Special Form for Conscientious Objector (D. S. S. Form No. 47), all affidavits and other documents filed in support of the questionnaire, the report and ruling of the local board, the report of the investigation made by the Federal Bureau of Investigation, and all affidavits and documents accompanying such reports.

2. If the Hearing Officer deems it advisable, he may request the Federal Bureau of Investigation to make a further investigation into such matters pertinent to any case as appears necessary to a complete hearing on the claim and to make a supplemental report covering the additional investigation, or he may confer personally with the local office of the Federal Bureau of Investigation concerning the case.

3. When it appears that a sufficient investigation has been made, the Hearing Officer should fix a time and place for the hearing and mail a notice thereof to the registrant at least ten days prior to the date set for hearing. The form of notice to used should be substantially as follows:

### NOTICE OF HEARING

-----		
City	State	Date
To: -----		
Name of Registrant		
-----		
Street Address	City	State
You are hereby notified that before the under-		
signed Hearing Officer at Room ----, -----		
-----		
Building		
Street Address	City	State
at ----- o'clock on -----, 194-----,		
hour	month	day
a hearing will be held, by the Department of Jus-		

tice to consider your claim to exemption from training and service under the Selective Training and Service Act of 1940 by reason of your alleged conscientious objection to participation in war in any form. You have a right to be present at such hearing and to present any pertinent evidence in support of your claim.

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Hearing Officer.

Note: There is enclosed a copy of "Instructions to Registrants Whose Claims for Exemption as Conscientious Objectors Have Been Appealed." You should read these instructions carefully for your information concerning this Hearing and your participation therein.

4. The Hearing Officer should arrange such schedules of hearings within the territory assigned to him as will result in the least expense to the Government without undue inconvenience to the registrant. Whenever practicable the hearings should be held only in places designated for holding terms of United States District Courts.

5. At the time of giving notice of hearing, the Hearing Officer should enclose a copy of "Instructions To Registrants Whose Claims for Exemption as Conscientious Objectors Have Been Appealed." The Hearing Officer should be governed by the provisions contained in such Instructions, a copy of which is attached to this memorandum. In complying with the request referred to in Paragraph 2 of such Instructions, the Hearing Officer



should not reveal to the registrant the source of any confidential information contained in reports of the Federal Bureau of Investigation, or received from any informant. A clear and succinct statement of the facts which will apprise the registrant of the objections raised to granting his claim is sufficient. However, no Hearing Officer should make any finding of facts detrimental to the registrant which is based upon information, the source of which is not disclosed to the registrant.

6. The hearing conducted by the Hearing Officer has for its purpose the ascertaining of information that would aid in determining "the character and good faith of the objections of the person" who claims exemption from combatant or non-combatant service. It will be essential, therefore, to ascertain the truth of all statements made by the conscientious objector, as appear in the above mentioned questionnaires and all affidavits filed by him in support of his claim. From the investigative reports and personal and informal examination of the registrant, the Hearing Officer should endeavor to form a fair but definite opinion of the sincerity of the registrant's alleged convictions and beliefs and the consistency of his daily life with those beliefs. In seeking to determine the sincerity of the registrant's conscientious objection to war in any form, the Hearing Officer should bear in mind that persons who "by reason of religious training and belief" are "conscientiously opposed to war in any form" may be divided into two types:



(a) Those whose conscientious objections are based upon the tenets of a particular church or religious organization, and

(b) Those whose conscientious objections are based upon their own scruples but who do not rely upon adherence to a particular religious doctrine or membership in any church, sect, or religious organization as a basis thereof.

The question in the first class of cases is whether the registrant is a bona fide member of such group or denomination or sect and whether his conduct and mode of life are generally such as to indicate that he is a bona fide believer in its tenets. This group will include member of the so-called "Peace Group" churches (a list of which will be furnished you) as well as members of other denominations, or established churches, the creeds of which are a basis for an individual belief that war is unchristian or ungodly. In the second class of cases the question is whether the registrant individually is conscientiously opposed to participation in war in general and not whether he is conscientiously opposed to participation in a particular war. In seeking to determine the state of mind of the conscientious objector, which may be difficult in the latter class of cases, the Hearing Officer should satisfy himself that the objections of the registrant are based upon a personal religious or ethical conviction, and not upon a political doctrine.

7. The hearing should not be in the nature of a trial or judicial proceeding, but should be in-

formal and no-legalistic without regard to ordinary rules of evidence. It must at all times remain under the direction and control of the Hearing Officer, so as to insure orderliness and dignity. The interest of the registrant may well require that the hearing, in view of its nature and object, be private. It should be so conducted that the rights of the registrant on the one hand, and the rights of his country and fellow citizens on the other, are recognized and protected.

8. If, after considering the record and the evidence which has been introduced at the hearing, the Hearing Officer is not satisfied that all pertinent facts have been disclosed, he may adjourn the hearing to a definite future date, of which fact the registrant shall be advised, and he may request the Federal Bureau of Investigation to make a further inquiry into the specific matters concerning which he is not satisfied.

9. Upon conclusion of the hearing, the Hearing Officer should prepare (1) a statement of findings of fact based upon a consideration of the entire file and record and all the evidence adduced, which statement should include a finding whether the registrant is opposed to participation in combatant service only, or, to participation in service in any form, including non-combatant service, and (2) a proposed recommendation of the Department of Justice to the appropriate appeal board in accordance with the pertinent provisions of Section 5(g) of the Selective Training and Service Act of 1940. The Hearing Officer should then forward

the entire file and record, together with the original and two copies of the findings of fact and the proposed recommendation, to the Assistant to the Attorney General at Washington, D. C.

ROBERT H. JACKSON,  
Attorney General.

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After oral arguments had been presented to the jury by counsel for the respective parties the Court instructed the jury, giving to the jury all of the instructions proposed by plaintiff and none of those proposed by the defendant.

Defendant duly excepted to the Court's refusal to give defendant's complete proposed Instructions Nos. 1 to 15 inclusive to the jury and excepted to the giving to the jury of plaintiff's proposed Instructions Nos. 4 to 7 inclusive, and said exceptions were duly noted by said Court. The exception was noted in the following manner:

"Mr. Wirin: May I take exception to the instructions before the jury retires?

The Court: An exception to those instructions not given?

Mr. Wirin: And also to certain instructions given; instructions No. 4, 5, 6 and 7, as proffered by the Government and given by the Court.

The Court: Note an exception, Mr. Reporter, to those instructions.

The jurors will retire." (Tr. line 30, p. 87 through line 8, page 88). [27]

The following are the complete number of instructions requested by defendant which were refused by the Court and to which refusal exceptions were timely taken by defendant and noted by the Court, to-wit:

"No. 1. You are instructed that the Selective Training and Service Act of 1940, as amended (5(g)) provides for exemption from military service those who by reason of religious training and belief conscientiously are opposed to participation in war in any form, if their claims are sustained.

Any person who is found by the Selective Service agencies to be conscientiously opposed to participation in war in any form is to be assigned to work of a national importance under civilian direction, in lieu of induction into the armed forces.

You are further instructed that there has been set up numerous civilian public service camps throughout the country, to which camps such conscientious objectors are assigned to perform work of national importance.

You are further instructed that Selective Service Regulations, paragraph 622.51 provides that registrants who are found by the Selective Service agencies, by reason of religious training and belief, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to both combat and noncombatant military service are to be classified as IV-E.

You are further instructed that in the event that a local draft board refuses to grant a IV-E classification to a registrant, the registrant has a right

of appeal. That in the event the registrant takes such appeal, the Selective Service Regulations further provide (627.25) that the department of justice shall thereupon make an inquiry and hold a hearing on the character and good faith of the conscientious objections of the registrant; and that the registrant shall be notified of the time and place of [28] such hearing and shall have an opportunity to be heard.

You are further instructed that an opportunity to be heard includes an opportunity furnished to the registrant to know the nature and import of any evidence in the possession of the hearing officer adverse to the registrant, so that the registrant may be afforded the right and opportunity to meet or otherwise refute such adverse evidence.

You are further instructed that a finding by a hearing officer, or a recommendation by a hearing officer based upon evidence or information not made known to the registrant and without affording the registrant an opportunity to meet or refute such evidence, is not in accord with due process of law, and makes such finding or recommendation arbitrary and capricious; and a hearing resulting in such findings or recommendation is not a fair hearing as required by due process of law.

No. 2. That defendant is charged with having "knowingly and feloniously" failed and neglected to comply with an order of his local draft board, No. 106, to report for induction into the Land and Naval forces of the United States, as provided in the Selective Training and Service Act of 1940,



as amended, and the rules and regulations made pursuant thereto. The burden is upon the Government to prove that the defendant failed to report as ordered in each of these particulars.

The word "feloniously" means done with an evil heart or purpose; with a wicked intent; malicious, villainous or perfidious. It means an act done with intent to commit a crime, with a mind bent on that which is wrong.

If you find that the defendant did not feloniously fail to comply with the order of the board to report for induction, or if you find that there is a reasonable doubt as to whether the defendant feloniously failed so to report, you will find the defendant not guilty. [29]

No. 3. You are instructed that a registrant is not required to comply with an order of a local board or of any other Selective Service agency if such order is void or unlawful.

You are further instructed that if you find that the defendant has violated no lawful order of his local board or any other Selective Service agency, you are to acquit the defendant.

No. 4. You are instructed that although under the Act, the decision as to what classification a particular registrant is to receive is left to the local board, this does not mean that a court of law does not have the power nor that you as a jury do not have the power to review a classification.

This review is limited, however, to a determination by the jury of the facts, subject to the limitations to be indicated by the Court in later instruc-



tions, that constitute arbitrariness or capriciousness, denial by the draft board of a fair hearing, or violation by the draft board of the provisions of the Selective Training and Service Act, or the Rules and Regulations adopted pursuant to the Act.

No. 5. You are instructed that Local and Appeal Boards under the Selective Service System must not act in an arbitrary or capricious manner. Classifications by such boards must be based upon the evidence before them and that evidence alone.

If you find that the local and appeal boards in this case acted in an arbitrary or capricious manner or disregarded the evidence that was before them or failed to give the registrant, defendant here, a full and fair hearing, you will acquit the defendant and find him not guilty.

No. 6. You are further instructed more particularly that if the order of the local or appeal boards in classifying the defendant or the recommendation of the hearing officer was made arbitrarily or capriciously, or was the result of passion or prejudice; or was made in disregard of the evidence presented to [30] it, or if there was not substantial evidence to sustain the findings of said agencies; or if the defendant was denied any hearing at all; or was denied a full and fair hearing, the order of the local or appeal board in ordering the defendant to report for induction into the armed forces, or the recommendation of the hearing officer resulting in said order, was an illegal order

since it was made as a result of the deprivation of the defendant in his rights of due process of law.

It is for the jury to determine the facts as whether any of the above took place in the case of the defendant.

No. 7. You are instructed that under the Rules and Regulations of the Selective Service system a registrant who objects to a classification given him by a local draft board, has the right to request a personal appearance and hearing before said local board; that the registrant at said hearing is entitled to present evidence or information to the board supporting his claim for a classification, and is entitled to have said evidence heard and considered by said local board.

You are further instructed that if a local board refuses to permit a registrant to produce such evidence, or if a local board refuses to consider said evidence, that said hearing violates due process of law; is arbitrary and capricious and an order resulting from such a hearing is void.

No. 8. The denial of a full and fair hearing is the same thing as the denial of any hearing. Therefore, if you find that although the defendant was granted a hearing either by the local board or the hearing officer, if either of those hearings was not a full and fair one, but was merely perfunctory and was not in accord with the ordinary rules of decency and fair play, or not in accord with the Selective Service System Rules and Regulations, you will find the defendant not guilty.

No. 9. If you find that there was not substan-

tial evidence [31] before the local and appeal boards to sustain the finding that defendant should be classified as he was, you will find the defendant not guilty.

By substantial evidence is meant a large quantum of evidence. It does not mean an absence of evidence and it means more than just a scintilla or some evidence. It means that there must be enough evidence before the boards so that a reasonable man in the same circumstances as presented in this case would come to the same conclusion as the boards did.

If there was not enough of such evidence before the local or appeal board, you must acquit the defendant.

No. 10. If you find that the decision of the local or appeal board was arrived at because of passion or prejudice against the defendant or against Mankind United, you will find the defendant not guilty.

No. 11. If you find that the local board acted arbitrarily or capriciously in classifying the defendant as it did, you will find the defendant not guilty.

No. 12. If you find that the local or appeal board, or the hearing officer, disregarded the evidence presented on behalf of the defendant, you will find the defendant not guilty.

No. 13. You are instructed that under the Selective Training and Service Act it is not necessary for a person to be a member of or belong to a church or religious organization in order to be en-

titled to classification as a conscientious objector. Under the present law, conscientious scruple against war in any form, rather than allegiance to a definite religious group or creed.

Religious belief may be defined as a "sense of inadequacy of reason as a means of relating the individual to his fellow men and to his universe"; it finds "expression in a conscience which categorically requires the believer to disregard elementary self- [32] interest and to accept martyrdom in preference to transgressing its tents."

No. 14. Arbitrary power and the rule of the United States Constitution requiring the principle of fair play (legally known as "due process") cannot both exist at the same time. They are antagonist and incompatible forces. Of necessity arbitrary power must perish before the rule of the Constitution. There is no place in our constitutional system of government (and this includes the administration of the Selective Service System) for the exercise of arbitrary power.

No. 15. You are instructed to find the Defendant not guilty."

The following are the complete number of instructions requested by plaintiff which were given by the Court to the jury to the giving of Nos. 4, 5, 6 and 7 which the defendant took timely exceptions which were noted by the Court, to-wit:

"No. 1. The indictment in this case charges that the defendant, Jack W. Bagley, being a male citizen between the ages of twenty and forty-five years, residing in the United States, and under the duty

to present himself for and submit to registration under the provisions of the Selective Training and Service Act of 1940, as amended, and thereafter to comply with the rules and regulations made pursuant thereto, and having in pursuance of said act, as amended, and the rules and regulations pursuant thereto, become a registrant of Local Board No. 106 of the Selective Training and Service System, in the City of Redwood, County of San Mateo, California, which said Local Board No. 106 was duly appointed and acting for the area of which said defendant is a registrant, did, on or about the 17th day of July, 1943, in the City of Redwood, County of San Mateo, in the Southern Division of the Northern District of California, and within the jurisdiction of this court, knowingly and feloniously [33] fail and neglect to perform such duty, in that he, the said defendant, having theretofore been classified in Class 1-A, did then and there knowingly and feloniously fail to comply with the order of said Local Board 106 to report for induction into the land and naval forces of the United States, as provided in the said Selective Training and Service Act of 1940, as amended, and the rules and regulations made pursuant thereto.

No. 2. The pertinent portions of Section 11 of the Selective Training and Service Act of 1940, as amended, under which the defendant in this case is charged in the indictment states that any person who in any manner shall knowingly fail or neglect to perform any duty required of him under this act



or the rules and regulations made pursuant to this act, shall upon conviction be punished as the said act provides.

No. 3. I instruct you that in Class 1-A shall be placed every registrant who is found available for general military and naval service, and such registrant shall be liable for induction into the armed forces of the United States.

No. 4. I instruct you that the local boards, under the rules and regulations prescribed by the President, shall have power, within their respective jurisdiction, to hear and determine, subject to the right of appeal boards therein authorized, all questions or claims with respect to inclusion for or exemption or deferment from training and service under the Selective Training and Service Act of 1940, as amended, of all individuals within the jurisdiction of such local board. The decision of such local board shall be final, except where an appeal is authorized in accordance with such rules and regulations as the President may prescribe.

No. 5. I instruct you that each board of appeal shall have jurisdiction to review any decision concerning classification of a registrant by any local board in the area of the board of [34] appeal, provided that an appeal has been filed with the local board. Such appeal must be taken within ten days after the date when the local board mails to the registrant a notice of classification, Form 57. The decision of the board of appeal shall be final, unless modified or reversed by the President.



No. 6. I instruct you that whether a Selective Service registrant is a conscientious objector presents a question of fact, which from its very nature is committed by the act to the determination of a competent local draft board, and if an appeal is taken, to the determination of the proper appeal board. You as jurors are not to decide whether the defendant is or is not a conscientious objector. What you are to determine is whether the defendant after classification intentionally ignored the draft board's order to report for induction.

No. 7. I instruct you that if you find beyond a reasonable doubt and to a moral certainty that the defendant has been classified in Class 1-A and that he was duly ordered by the Selective Service Local Board No. 106 of Redwood City, California, the Selective Service board with which he was registered, to report for induction into the land or naval forces of the United States, at Redwood City, California, on or about the 17th day of July, 1943, as provided by said Selective Training and Service Act of 1940, as amended, and at that time and place as aforesaid, he knowingly failed and neglected to perform such duty, then you shall find the defendant guilty as charged."

The following instructions to the jury were given by the Court at its own instance:

"(a) The defendant is charged with having knowingly and feloniously failed and neglected to comply with the order of Local Draft Board No. 106 to report for induction into the land or naval forces of the United States, as provided in the Selective

Training and Service Act of 1940, as amended, and the rules [35] and regulations made pursuant thereto. The burden is upon the Government to prove that the defendant failed to report as ordered, in each of these particulars.

(b) The word "feloniously" means with a deliberate intent to do a wrongful act. By the filing of an indictment no presumption whatever arises to indicate that the defendant is guilty or that he has any connection with or responsibility for the act charged against him. The defendant is presumed to be innocent at all stages of the proceeding, until the evidence introduced on behalf of the Government shows him to be guilty beyond a reasonable doubt; and this rule applies to every material element of the offense charged. Mere suspicion will not authorize a conviction.

(c) The determination of a charge in a criminal case involves the proof of two distinct propositions. First, that the crime charged therein was committed; and second, that it was committed by the person accused thereof and on trial therefor. These two propositions and every essential and material and necessary fact to prove them or either of them must be established by the Government to a moral certainty and beyond a reasonable doubt.

(d) The defendant is presumed to be innocent, and this presumption has the weight and effect of evidence in his behalf, and continues to operate in his favor until it is overcome by competent evidence. If the evidence introduced does not overcome this presumption of innocence to your satisfaction to a

moral certainty and beyond a reasonable doubt, you must find the defendant not guilty.

(e) It is not necessary for the defendant to prove his innocence. The burden rests upon the prosecution to establish every element of the crime with which he is charged, to a moral certainty and beyond a reasonable doubt. [36]

(f) A reasonable doubt is a doubt resting upon the judgment and reason of him who conscientiously entertains it, from the evidence in the case. It is a doubt based upon reason. By such a doubt is not meant merely every possible or fanciful conjecture that may be suggested or imagined. Reasonable doubt is that state of the case, which after entire comparison and consideration of the evidence in the cause, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge. A reasonable doubt is not a mere imaginary or possible doubt, but a fair doubt based on reason and common sense, and growing out of the testimony in the case. The jury are the sole and exclusive judges of the value and effect of the evidence addressed to them, and of the credibility of the witnesses who have testified in the case; and the character of the witnesses as shown by the evidence should be taken into consideration for the purpose of determining their credibility, and the fact as to whether they have spoken the truth; and the jury may scrutinize not only the manner of the witnesses while on the stand, their relation to the case, if any, but also their degree of intelligence. A witness is

presumed to speak the truth. This presumption, however, may be repelled by the manner in which he testifies, his interest in the case, if any, or a motive for testifying falsely, if any, or his bias or prejudice, if any, against one or more of the parties, by the character of his testimony, or by evidence affecting his character for truth, honesty or integrity, or by contradictory evidence.

(g) In judging of the evidence you are to give it a reasonable and fair construction, and you are not authorized, because of any feeling of sympathy or other bias, to apply a strained construction, one that is unreasonable, in order to justify a certain verdict, when were it not for such feeling or bias you [37] would reach a contrary conclusion; and whenever, after a careful consideration of all the evidence, your minds are in that state where a conclusion of innocence is indicated equally with a conclusion of guilt, or there is a reasonable doubt as to whether the evidence is so balanced, the conclusion of innocence must be adopted.

(h) In determining what your verdict shall be you are to consider only the evidence before you. Any testimony as to which an objection was sustained and any testimony which was ordered stricken out must be wholly left out of account and disregarded.

(i) A verdict of the jury should represent the opinion of each individual juror. It by no means follows that the opinion may not be changed in the jury room. The very object of the jury system is to secure unanimity by comparison of views and

arguments among the jurors themselves. There is nothing particularly different in the way a jury is to consider the proof in a criminal case from that by which men give their attention to any question depending upon evidence presented to them. You are expected to use your good sense; consider the evidence only for the purpose for which it has been admitted; in the light of your knowledge of the natural tendencies and propensities of human beings resolve the facts according to deliberate and cautious judgment, and while remembering that the defendant is entitled to any reasonable doubt that may remain in your minds, remember as well that if no such doubt remains the Government is entitled to a verdict.

Jurors are expected to agree upon a verdict when they can conscientiously do so. You are expected to consult with one another in the jury room, and any juror should not hesitate to abandon his own view when convinced that it is erroneous.

Your verdict must be unanimous.

When you retire to the jury room, you will select one of your number as foreman, and he will sign your verdict for you when [38] it is agreed upon, and will represent you as your spokesman in the further conduct of this case in court.

The clerk has prepared a blank form of ballot, and when you have agreed upon your verdict, you may fill in that blank and it may be signed by your foreman. The jury will retire and deliberate upon the case."



At the conclusion of the reading of the instructions to the jury by the Court the jury retired to determine upon a verdict and thereafter on said day returned a verdict of Guilty as charged in the Indictment.

Thereafter on said day, following the discharge of the jury, the defendant moved the said Court for a new trial based upon each and all of the following grounds, to-wit:

“1. That the verdict of the jury abridges the defendant’s freedom of religion guaranteed by the First Amendment of the Constitution of the United States.

2. That it abridges defendant’s liberty without due process of law guaranteed by the Fifth Amendment to the Constitution of the United States, and more particularly in the following respects:

3. The evidence discloses that the defendant did not have a fair hearing from the Local Draft Board as required by due process of law and as required by the rules and regulations of the Selective Service System, with particular reference to paragraph No. 625.1 and 625.2 of the Rules and Regulations.”

The said motion being argued at length by counsel for the respective parties and having been submitted to the court for decision the said motion for a new trial was denied, by an order of said court then and there made, to which said order defendant duly excepted.

Thereupon defendant moved the said court in arrest of judgment upon each and all of the grounds stated and urged upon his motion for a new trial



and said motion was then and there denied by an [39] order of said court.

Thereafter on said day said Court sentenced defendant to two (2) years imprisonment in a federal penitentiary to be designated by the Attorney General.

The above Bill of Exceptions contains a recital of all of the evidence, oral and documentary, and all of the proceedings relating to the trial, conviction, sentence and motions made in said action.

Dated: November 15th, 1943.

FRANK J. HENNESSY,  
United States Attorney,  
JOSEPH KARESH,  
Assistant United States Attorney,  
Attorneys for Plaintiff.

A. L. WIRIN,  
THEODORE TAMBA,  
WAYNE COLLINS,  
Attorneys for Defendant. [40]

Receipt of a copy of the above Bill of Exceptions is hereby admitted this 15th day of November, 1943.

FRANK J. HENNESSY,  
United States Attorney,  
JOSEPH KARESH,  
Assistant United States Attorney,  
Attorneys for Plaintiff.

## STIPULATION

It is hereby stipulated between the parties hereto, by their respective counsel, that the above and foregoing Bill of Exceptions was prepared within the time allowed by law, and as extended by court order, that it represents the bill of exceptions proposed by the defendant and as amended by the plaintiff; that the same is in proper form and conforms to the truth and that it may be settled, allowed, approved and authenticated by this Court as the true Bill of Exceptions on appeal herein and be made a part of the records in said case.

Dated: November 15th, 1943.

FRANK J. HENNESSY,

United States Attorney,

JOSEPH KARESH,

Assistant United States Attorney,  
Attorneys for Plaintiff.

A. L. WIRIN,

THEODORE TAMBA,

W. M. COLLINS,

Attorneys for Defendant.

## ORDER

It is hereby ordered that the above and foregoing engrossed Bill of Exceptions, duly presented to this court and agreed to by the respective parties hereto, and which has been presented to the Court within the time allowed by law and the rules and orders of this Court, be and the same is hereby settled,

allowed, signed and authenticated as in proper form and in conformity with the truth and as the true Bill of Exceptions herein, and the same is [41] hereby made a part of the record in this case.

Dated: November 15th, 1943.

MICHAEL J. ROCHE,  
United States District Judge.

[Endorsed]: Filed Nov. 15, 1943. [42]

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[Title of District Court and Cause.]

Bond No. 824—0017

### BAIL BOND ON APPEAL

Know All Men By These Presents:

That we, Jack W. Bagley as Principal, and the Northwest Casualty Company, a Washington Corporation, as surety, are jointly and severally held firmly bound unto the United States of America in the sum of Three Thousand Dollars (\$3000.) Dollars, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators and assigns.

The condition of the foregoing obligation is as follows:

Whereas, lately, to-wit, on the 29th day of September, 1943, at a term of the District Court of the United States, in and for the Northern District of California, Southern Division, in an action pending

in said Court in which the United States of America is Plaintiff, and Jack W. Bagley was Defendant, judgment and sentence was made, given, rendered and entered against the said Defendant in the above entitled action, whereas he was convicted as charged in the indictment;

Whereas, in said judgment and sentence, so made, given, rendered and entered against said Jack W. Bagley, it was ordered and adjudged that the defendant, having been found guilty of said offense, is hereby committed to the custody of the Attorney General for imprisonment in an institution of the United States, to be designated by the Attorney General or his Authorized representative for a period of [43] 2 years.

Whereas, the said Jack W. Bagley, has filed notice of appeal from the said conviction and from the said judgment and sentence, appealing to the United States Circuit Court of Appeals for the Ninth Circuit; and

Whereas, the said Jack W. Bagley, has been admitted to bail pending the decision upon said appeal, in the sum of Three Thousand Dollars (\$3000.) Dollars.

Now Therefore, the conditions of this obligation are such that if said Jack W. Bagley shall appear in person, or by his attorney, in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said Court and prosecute his appeal; and if the said Jack W. Bagley shall abide by and obey Court orders by the said United

States Circuit Court of Appeals for the Ninth Circuit, and if the said Jack W. Bagley shall surrender himself in execution of said judgment and sentence, if the said judgment and sentence be affirmed by the United States Circuit Court of Appeals for the Ninth Circuit; and if the said Jack W. Bagley will appear for trial in the District Court of the United States, in and for the Northern District of California, Southern Division, on such day or days as may be appointed for retrial by said District Court, and if the said judgment and sentence against him be reversed, then this obligation shall be null and void; otherwise to remain in full force and effect.

This Recognizance shall be deemed and construed to contain the "express agreement", summary judgment and execution thereon, mentioned in Rule 34 of the District Court.

JACK W. BAGLEY,

Principal, 2924 Jefferson Ave.,  
Redwood City, Calif.

Address. [44]

NORTH WEST CASUALTY  
COMPANY, a Washington Corporation.

By A. W. APPEL

[Seal]

A. W. APPEL, Its Attorney-in-Fact.  
Surety

Acknowledged before me and approved this 17 day of Nov. 1943.

[Seal] FRANCIS ST. J. FOX,  
U. S. Commissioner, Northern Dist. California, at  
San Francisco.

Approved as to Form Nov. 16/1943.

FRANK J. HENNESSY,  
United States Attorney.

I hereby certify that I have examined the within bond and that in my opinion the form thereof is correct and surety thereon is qualified.

THEODORE TAMBA,  
Attorney for Defendant and  
Appellant.

The foregoing bond is approved this 16th day of November, 1943.

MICHAEL J. ROCHE,  
United States District Judge.

State of California,  
County of Los Angeles,—ss.

On this 16th. day of November, A. D. 1943, before me, Marva Weede, a Notary Public in and for the County and State aforesaid, duly commissioned and sworn, personally appeared A. W. Appel, Attorney-in-Fact of the Northwest Casualty Company, a Washington corporation, to me personally known to be the individual and officer described in and who executed the within instrument, and he acknowledged the same, and being by me fully sworn, deposes



and says that he is the said officer [45] of the Company aforesaid, and the seal affixed to the within instrument is the corporate seal of said Company, and that the said corporate seal and his signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation.

In Witness Whereof, I have hereunto set my hand and affixed my official seal at my office in the City of Los Angeles, County of Los Angeles, the day and year first above written.

MARVA WEEDE,

Notary Public in and for the County fo Los Angeles, State of California.

My Commission Expires February 3, 1946.

[Seal of the Notary]

[Endorsed]: Filed Nov. 17, 1943. [46]

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[Title of Court and Cause.]

STATEMENT OF POINTS UPON WHICH  
PETITIONER INTENDS TO RELY ON  
APPEAL

Petitioner hereby adopts as his points on appeal the assignments of error included in the petition for review within the transcript of record.

A. L. WIRIN,

THEODORE TAMBA,

W. M. COLLINS,

Attorneys for Appellant.

Received copy this 19th day of Nov. 1943.

FRANK J. HENNESSY,

U. S. Attorney.

[Endorsed]: Filed Nov. 19, 1943. [47]

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[Title of District Court and Cause.]

### ASSIGNMENT OF ERRORS

Appellant in the above-entitled action assigns as error the following:

(1) The giving of instructions by the Court that the decisions of the Local Board are final.

(2) Giving of instructions by the Court that the jury could not determine whether the Local Board or the Appeal Board was right in its determination of the classification of defendant.

(3) The refusal to give instructions 1 to 15 inclusive requested by the defendant.

(4) The giving of instructions 4 to 7 inclusive requested by the prosecution.

(5) The judgment of conviction violates the rights of the defendant to freedom of religion.

Dated this 19th day of November, 1943.

A. L. WIRIN,

THEODORE TAMBA,

W. M. COLLINS,

Attorneys for Appellant.

Received copy of within this 19th day of Nov., 1943.

FRANK J. HENNESSY,  
U. S. Attorney.

[Endorsed]: Filed Nov. 19, 1943. C. W. Calbreath, Clerk. [48]

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[Title of Court and Cause.]

INSTRUCTIONS TO CLERK RE  
PREPARATION OF RECORD

To the Clerk of the Above-Entitled Court:

You will please prepare a transcript of record in this cause to be filed in the office of the Clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, under the appeal heretofore taken herein, and include in said transcript the following pleadings, proceedings, orders and documents, to-wit:

1. The Indictment.
2. Arraignment and plea, minute entry thereon.
3. The verdict, judgment, sentence to two years in jail and commitment.
4. Notice of Appeal.
5. Court order of Oct. 14, 1943, fixing time within which to file, serve and settle Bill of Exceptions, and orders extending time thereon (minute orders).
6. Assignment of Errors.
7. Bill of Exceptions.
8. All exhibits introduced into evidence at trial.

9. Order allowing release on bail pending appeal.

10. Bail Bond on Appeal.

11. Statements of Points upon which defendant intends to rely upon appeal and description of parts of record to be printed.

12. This praecipe.

Dated: November 22, 1943.

A. L. WIRIN,

THEODORE TAMBA,

W. M. COLLINS,

Attorneys for Defendant (Appellant).

(Admission of Service.)

[Endorsed]: Filed Nov. 22, 1943. [49]

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District Court of the United States  
Northern District of California

**CERTIFICATE OF CLERK TO TRANSCRIPT  
OF RECORD ON APPEAL**

I, C. W. Calbreath, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 49 pages, numbered from 1 to 49, inclusive, contain a full, true, and correct transcript of the records and proceedings in the case of *The United States of America vs. Jack W. Bagley*, No. 28056 R, as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of Six Dollars and Eighty Cents (\$6.80) and that the said amount has been paid to me by the Attorney for the appellant herein.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court at San Francisco, California, this 6th day of December, A. D. 1944.

[Seal]

C. W. CALBREATH,  
Clerk.

M. E. VAN BUREN,  
Deputy Clerk. [50]

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[Endorsed]: No. 10574. United States Circuit Court of Appeals for the Ninth Circuit. Jack W. Bagley, Appellant, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Northern District of California, Southern Division.

Filed December 6, 1943.

PAUL P. O'BRIEN,  
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the United States Circuit Court of Appeals  
for the Ninth Circuit

No. 10574

JACK W. BAGLEY,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

THE STATEMENT OF POINTS AND DESIGNATION  
OF PARTS OF THE RECORD

Appellant states that he intends to rely on all the points set out in his assignment of errors.

The appellant hereby designates the following documents to be included in the printed transcript of the record:

1. Indictment
2. Arraignment and Plea
3. Verdict
4. Judgment and Sentence
5. Notice of Appeal
6. Orders Extending Time to Settle and File Bill of Exceptions
7. Bill of Exceptions
8. Assignment of Errors
9. All Exhibits Introduced into Evidence at Trial

A. L. WIRIN,  
W. M. COLLINS,  
THEODORE TAMBA,  
Attorneys for Appellant.



Received copy of the within Statement of Points and Designation of Parts of the Record this 16th day of December, 1943.

FRANK J. HENNESSY,

U. S. Attorney.

[Endorsed]: Filed Dec. 16, 1943. Paul P. O'Brien, Clerk.

